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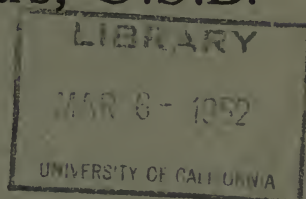
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THE  
Theological Position  
OF  
Gregory Sayrus, O.S.B.

1560-1602.



A Thesis for the Doctorate, presented to the  
Theological Faculty of the University of  
Fribourg, Switzerland.

BY

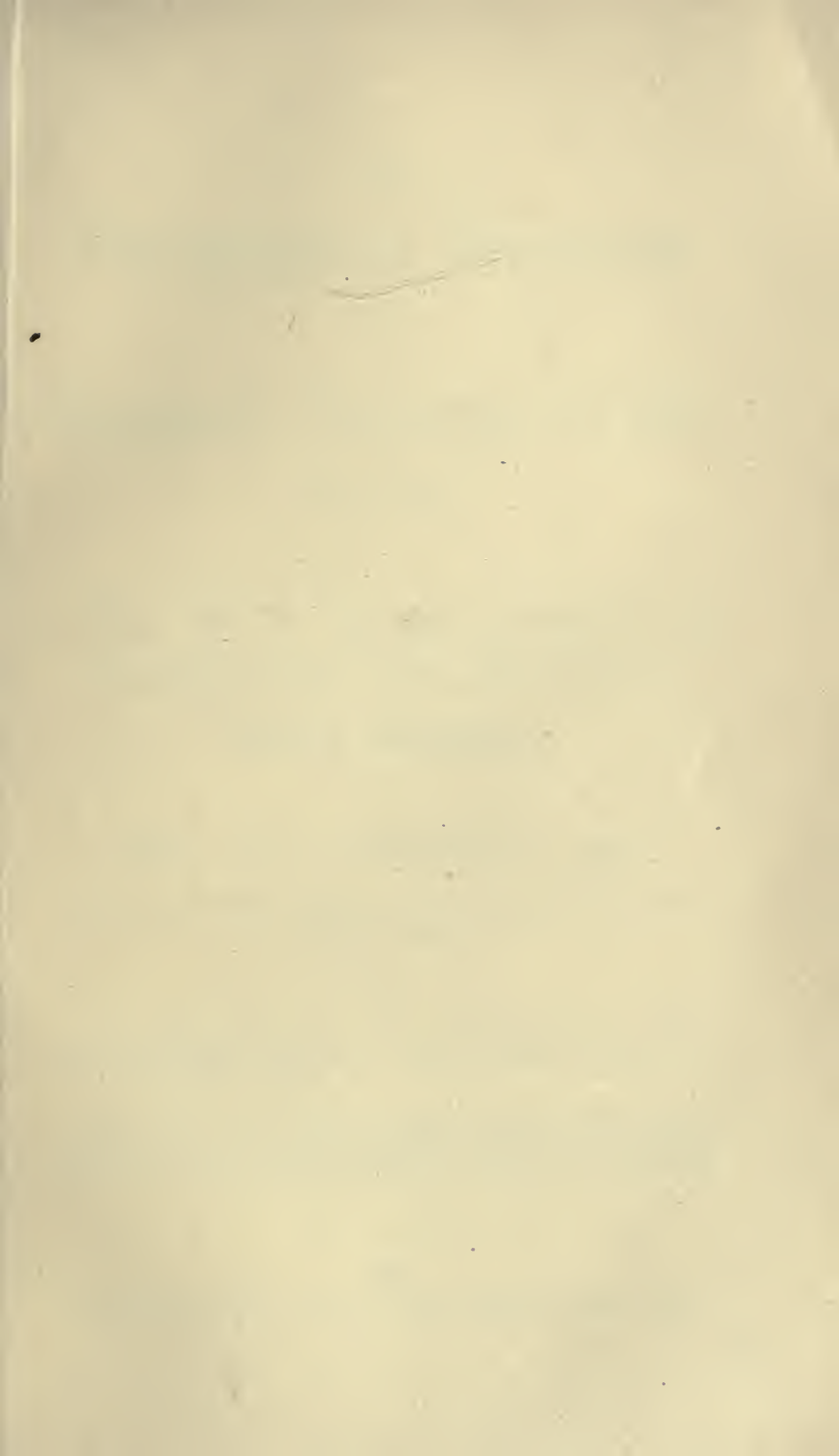
REV. E. J. MAHONEY, D.D.

*(Professor of Moral Theology, St. Edmund's College, Old  
Hall, Ware).*

1922.

Printed by JENNINGS & BEWLEY, WARE PRINTING WORKS, WARE.









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"Inter magnos theologos Sayrus annumerandus, maximis, si diutius  
vixisset, aequandus." (Bouquillon "Theologia Moralis Fundamental,"  
Bruges, 1903, p. 122, note 8).

"Quem non solum Schola Cassinensis sed Ecclesia Romana inter  
praecipuos quos unquam habuit theologiae moralis doctores numerare  
jure et merito potest, nisi principatum illi assignare velit." (Ziegelbauer  
"Historia Rei Literariae Ordinis S. Benedicti," cap. i, § 4, vol. II. p. 183.)

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# PREFACE.

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THIS dissertation is the thesis accepted by the Theological Faculty of the University of Fribourg, Switzerland, as part of the examination for the Doctorate, and it has been printed in order to comply with the statutes of the University. Its purpose is to recall the memory of a English theologian who has been entirely forgotten.

Gregory Sayrus is worthy of remembrance, for since the Reformation there have been very few Englishmen who have attained to any eminence as serious theologians. The rigours of the penal laws which have continued almost to within living memory, the scarcity of priests on the English mission, and the fact of their energies being almost entirely absorbed in active missionary work, have to a large extent impeded theological learning amongst us. With all the more reason, therefore, should the theologians that we have produced be remembered, and some indeed as Thomas Stapleton and Gregory Martin are familiar names, but Sayrus has been forgotten. In the following pages I have dwelt chiefly on his position as a moral theologian, save in the chapter on St. Thomas, which includes matter proper to dogmatic theology, inserted in order to illustrate his adherence to Thomist doctrine.

My grateful thanks are due to His Eminence the Cardinal Archbishop of Westminster, through whose generosity the printing of the thesis is made possible, and to the Very Rev. Canon Myers, M.A., who first brought the subject to my notice.

E. J. M.

ST. EDMUND'S COLLEGE,  
OLD HALL, WARE.

*May 22nd, 1922.*



# CONTENTS.

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## Part I.—His Historical Position.

	PAGE
Chapter I.      Life of Gregory Sayrus      ...      1	1
„      II.      A Survey of Moral Theology up to 1665	23
„      III.      Moral Theology in the Benedictine Order	37
„      IV.      The Position of Sayrus in Moral Theology ...      ...      ...	43

## Part II. His Moral System.

Chapter V.      The Moral Systems      ...      ...	54
„      VI.      Sayrus' Teaching on Conscience ...	67
„      VII.      The Probabilism of Sayrus      ...	75
„      VIII. His Teaching in the light of subsequent Condemned Propos- itions      ...      ...      ...	90

## Part III. His Sources and Influence.

Chapter IX.      Sayrus and St. Thomas ...      ...	106
„      X.      His Position in some Controversies	121
„      XI.      His Sources and Method      ...	130
„      XII.      His Influence ...      ...      ...	140
List of Authors      ...      ...      ...      ...	149
Index      ...      ...      ...      ...	151



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# PART I.

## CHAPTER I.

### LIFE OF GREGORY SAYRUS

Section 1. Early Life. Date of Birth. Cambridge—conflict with heretics. William Allen. Douay and Rheims.

Section 2. Rome. Origins of English College. Studies. The Martyrs. Conflict with Jesuits, domestic and political.

Section 3. Monte Cassino. Benedictine revival. The Mission Oath. Professorial work.

Section 4. Venice. Published works. Death. Character.

#### Section I.—Early Life, 1660-1682.

THE subject of this dissertation, in the few places where he is mentioned at all, is variously described as Seare, Sayer, Sayers, Saye, Saire and Sairo. Among this variety of spelling, I have thought it best to adhere to the latinised form of his name, which appears on all his published works, and by which he is referred to in theological books, viz.: SAYRUS, although Sayer is, I think, the correct English form. Similarly, the Christian name Gregory is the one by which he is generally known, this being the name he took in religion, though his baptismal name was Robert. As regards the date of his birth, there is a discrepancy of about ten years between the English and Latin records. Hurter<sup>1</sup>, following the monastic chroniclers, Armellini and Ziegelbauer, gives his dates as 1570-1602, and this is followed by modern manuals of Moral Theology in their lists of authors. The Dictionary of National Biography in a short account taken from English records, puts his birth at 1560, and this certainly is the correct date. The Douay Diary records his entry into the College in 1582, and it would have been impossible for him to enter the College as a Commoner at the early age of twelve; nor could he have been at Cambridge "perverting divers scholars" at that age<sup>2</sup>. Vacant's "*Dictionnaire de Theologie Catholique*" gives his dates 1570-1612<sup>3</sup>. This is certainly wrong as all the sources are agreed in giving 1602 as the date of his death at Venice. It is not without regret that one is compelled to reject the date given by the Latin authors, as it would be an added glory to his fame for a young man of thirty-two to have written so much. As Fr. D. Prümmer O.P. says "*mirum est, quod iste vir, qui juvenili fere aetate 32 annorum ex hac vita*"

<sup>1</sup> Hurter *Nomenclator* III, 601.

<sup>2</sup> D.N.B. Vol I. p. 390. II Douay Dairy (Ed. Knox) p. 185.

<sup>3</sup> Vacant *Dict. de Theol. Cath. art. Casuistique* E. Dublanchy.

decessit, potuit tot volumina eaque gravissima absolvere."<sup>1</sup> All the same, the age of forty-two is sufficiently youthful to arouse some admiration.

He was born at Redgrave, in Sussex, a village on the extreme north borders of the county, the son of John Sayers, "*mediocris fortunæ*."<sup>2</sup> There is a William Sayer, a yeoman of Stanningfield, Sussex, in the Recussant Roll of 1592-1593, mentioned later as "*nupe: de Stannyngfield*," and there were also Sayers in Yorkshire. His school-days were passed in the neighbouring township of Botesdale or Buddesdale, 1569-1576, where his ability gained him some sort of scholarship, for on the 5th of July, 1576, he was admitted to Caius College, Cambridge, as a minor pensioner, "*secundi ordinis, literarum gratia*."<sup>3</sup> His stay here was very short, for he quickly came into conflict with the College authorities owing to his Catholic faith. It was now forty years since the first breach with Rome under Henry VIII. The schism widened under Edward VI. (1547-1553), had been healed for a time during the short reign of Mary (1553-1558), and up to the year 1570 the authorities in Rome hoped that England would eventually return to Catholic unity through the succession of Mary Queen of Scots. In that year the Bull of Pius V. deposed Elizabeth, and absolved her subjects from allegiance, and the immediate result was an increased number of measures directed against Catholics as being a *fortiori* supporters of the Marian claim, and therefore guilty of treason towards the reigning sovereign.

This political aspect is one of the saddest points in the religious situation in England at that time, for a large number of Catholics while remaining under persecution for their faith were yet loyal to Elizabeth, and when later on the Pope supported the Spanish claim they were largely instrumental in helping to defeat the Spanish Armada. Sayrus was of this mind, and we shall see that it was one of the reasons why he left the English College and joined the Benedictines. But at the date we are considering at least half the country were still Catholic at heart, and through the ministrations of the remnant of the Catholic Marian clergy, they were able to practice their religion secretly; the persecution had not reached the ferocity which distinguished the later years of Elizabeth. This was certainly true at least in the country districts, so that it was possible for Sayrus to arrive at Cambridge an educated Catholic, prepared to do all in his power to defend the ancient faith among the heretics in the University. He did this with

1 Prümmer Theol. Moralis I. p. xxxv.

2 Venn. Admissions to Gonville & Caius College p. 34. Foley Records V. p. 154 is in error giving his diocese as St. Asaph.

3 Ibid.



such zeal that it attracted the attention of the authorities of Caius College, and they refused to allow him to take the degree of B.A. for the following reasons: "First, that by seacret conference he had laboured to pervert divers scholars, and some had perverted; secondly, for that he had used divers allegations against divers poyntes of Mr. Jewell's booke: thirdly, for that he had beene of great and familiar acquayntance with Fingeley, a pernicious papist; fourthly, for that he had used to gather together papistical books, and to convey them seacretly into the country."<sup>1</sup>

Jewell, the famous Anglican divine and Bishop of Salisbury, having fled the country during Mary's reign, had returned under Elizabeth, and by his writings had become recognised as the official exponent of the doctrines of the Protestant party in England. On the occasion of the Papal Bull dethroning Elizabeth, he had written in her defence "A view of a seditious Bull," but the account is referring to his famous work, "Apologia pro Ecclesia Anglicana," published in 1562. The controversy aroused by this book was taken up on the Catholic side by Harding, and it continued for some years after Jewell's death in 1571.<sup>2</sup> The "pernicious papist" with whom he had relations was perhaps John Finglow, who was executed for his religion at York in 1586. Sayrus, therefore having been expelled from Caius, entered another Cambridge College, Peterhouse.

It seems strange at first sight that the reasons which caused his dismissal from one College should not operate in another, but the corporate existence of Cambridge University only dates from 1571. Before that date each College was a separate entity, and the individual and independent nature of each foundation no doubt continued for some time after they were corporately united.

Peterhouse, the first of all the colleges at Cambridge, was founded by the English Benedictines in 1284, and like all the ancient colleges, it was modelled on a monastic pattern. Monastic traditions continued in spite of the Reformation, and are still discernible in many ways; for example, it was not till 1881 that the rule of celibacy for the Fellows was abolished. Peterhouse was evidently more tolerant of Catholicism, for Sayrus remained there till 1581 and took his B.A. degree. He studied philosophy and is referred to as a man of superior merit and learning,<sup>3</sup> and inasmuch as he arrived at

<sup>1</sup> Heywood & Wright, Cambridge University Transactions, I, 319, 320,

<sup>2</sup> Dict. Nat. Biog. Art. "Jewell."

<sup>3</sup> Pitts De Script. Angl., p. 800. Foley Records, V. 154. Armellini I. 193.

Douay with a reputation as a theological scholar, he must have engaged also in theological controversy and apologetic.

Of his life as a student at Cambridge nothing else can be discovered beyond these few facts. In discussing various questions in Moral Theology he shows an intimate knowledge of gambling and hunting which could only have been acquired at first hand, and he certainly had no opportunity for these things at Douay, Rome or Monte Cassino.<sup>1</sup> He also argues in a serio-comic vein that chess, if unaccompanied with curses and oaths, is a particularly licit and harmless amusement for a cleric.<sup>2</sup>

Like Blessed Edmund Campion at Oxford he eventually found that his life at Cambridge was not consistent with his profession of the Catholic Faith. There are no details of the reasons of his departure from Peterhouse, corresponding to those of Caius, and Pitts says simply "eo cursu propter amorem Catholicae Religionis relicto."<sup>3</sup> Wishing to study for the priesthood in order to return and labour for the defence of Catholicism in England, like so many English scholars of that time, he went over to William Allen in Flanders, at the beginning of the year 1582.

Douay was a new university, established in 1559, expressly in order to combat the new heresies, and owing to the part it has filled in providing clergy for England it is one of the most familiar names in English Catholicism. The Government hoped that with the death of the old Marian clergy, the ancient religion would gradually die out through lack of priests to keep it alive. That this hope was not realised is due to the energy and foresight of William Allen (1532-1594) afterwards Cardinal. Convinced of the essential Catholicism of the bulk of the English people, he determined to provide for the education of clergy who would be ready to return to England as soon as the schism was over, and with this object he naturally turned to Douay as providing an education suited for the needs of the time.

Several other English establishments settled there, and scholars exiled from their own country perpetuated the Catholic traditions of Oxford and Cambridge in the University. Allen's house was founded at Michaelmas, 1568, but as the chances of the healing of the English Schism became more remote his work assumed a missionary character, and priests were

<sup>1</sup> *Clavis Regia*, XI. c. 11, 12.

<sup>2</sup> *Ibid*, c. 12, n. 5.

<sup>3</sup> Pitts op. cit. *ibid*. Armellini I, p. 193 "ob Catholicam religionis expulsum."

sent into England in defiance of the Penal Laws, so that before the end of the century it had provided more than three hundred priests of whom a hundred were martyred. It furnished also a succession of scholars like Thomas Stapleton and Richard Bristowe, who opposed the Protestant errors in a steady stream of apologetical works; at Douay also was published the English version of the Holy Scriptures.

At the time when Sayrus arrived, owing to difficulties which had arisen with the University authorities, the College was temporarily established at Rheims (1578-1593). His entry is thus recorded in the Douay Diary: "22a die Februarii venerunt duae Cantabridgienses, Robertus Saire et Gulielmus Flacke qui infra triduum ad communia nostra in aula communi admissi sunt."<sup>1</sup> But he remained at Rheims only till the 3rd of September, when he was sent with six others to study at Rome at the English College, founded four years previously.

### Section 2.—Rome, 1682-88.

It is unnecessary to point out the large and important part in preserving Catholicism in England, filled by the English College at Rome, known later as the "Venerabile," from the noble company of martyrs and confessors which it gave to the Church. For Sayrus, the few years spent within its walls were the most important in his career, for not only was his theological knowledge perfected by the tuition of the greatest theologians of the day, and his spirit elevated in the companionship of future martyrs, but there also, owing to the peculiar circumstances prevailing at the time, he received his vocation to the religious life.

To understand these influences we must take a glance at the origins of the English College.<sup>2</sup> From the middle of the VII. century there had been an English centre in Rome, the ancient Schola Anglorum, supported the reception of pilgrims by the Saxon kings. Owing to the disputes between Pope and Emperor it fell on evil days during the XII. century, until it was reconstructed by Innocent III. (1198-1216) as a hospital for the poor and sick, and handed over to the care of the brothers of the Holy Spirit; hence the ancient English settlement of S. Maria in Sassia became known as S. Spirito in Sassia, which is still existing in the Borgo S. Spirito. It was still used by English people, though not confined to them, but in the great concourse of pilgrims during the Jubilee of 1350,

<sup>1</sup> II. Douay Diary. Ed. Knox p. 185.

<sup>2</sup> Cardinal Gasquet. The History of the Venerable English College Rome. London 1920.



further accommodation was found necessary, and the Hospice of the Most Holy Trinity and St. Thomas of Canterbury was founded on the spot where the English College now stands in the Via Monserrato. It continued to flourish as a national institution; the English Ambassador to the Pope lived there, and side by side with the pilgrims for whom it was originally intended, it became also the home for clerics staying in Rome for the purpose of study.

The breach with Rome at the Reformation meant the cessation of English pilgrims, and incidentally the cessation of English revenues, and the Hospice became the resort of exiles and fugitives from the persecution, depending chiefly for its maintenance on the generosity of the sovereign pontiff; many exiled ecclesiastics lived and died there, including the last English Catholic Bishop Goldwell, of St. Asaph. The two names always connected with the beginnings of the College are those of Dr. William Allen, whose strenuous efforts in founding the College at Douay have already been pointed out, and Dr. Owen Lewis like Allen an Oxford scholar and an exile for the Faith.

Some houses in the vicinity of St. Peter's were set apart by the Pope for the reception of English students in 1576, and soon after the arrival of Allen in Rome that same year, the more ambitious scheme of utilising the old Hospice and its revenues for the maintenance of students was sanctioned by the Pope. This arrangement naturally led to a conflict of interests between the newcomers, and those who represented the ancient purpose of the Hospice. For a short time the head of the Hospice, Dr. Maurice Clenock, remained the Rector of the College, and the studies were regulated by Dr. Gregory Martin, a famous Oxford scholar, assisted by two Jesuit fathers.

By 1578, four years before Sayrus' arrival, there were twenty-six students living in the house, and the work of the old Hospice continued side by side with the new foundation, but the chaplains of the old institution raised difficulties in the administration of the property, which were finally settled by supreme pontifical authority in a brief dated Christmas that year, recorded by Fr. Parsons, S.J. "A breve from the Pope's Holiness commanding all the ould chaplains to depart within 15 days, and assigning all the rents of the Hospitall unto the use of the Seminary, which was presently obeyed by the said priests."<sup>1</sup> Pilgrims still had the right to be received but the management of the whole establishment was under the single control of Dr. Clenock. Unfortunately Dr. Clenock

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<sup>1</sup> Fr. Parson's Memoirs. Cath. Record Society II. 144.

was not a suitable person for the post ; he favoured his Welsh countrymen against the English, and his position was extremely delicate since he had no authority over the Jesuits, who were responsible for the studies, and who enjoyed the confidence of the students.

Matters came to a head in Lent, 1579, when the scholars unable to obtain a remedy for their grievances, left the College and were on the point of departing from Rome rather than continue under the rule of Dr. Clenock. The Pope intervened at the last moment by handing over the College absolutely to the control of the Jesuits, and Fr. Agazzari, S.J., was made the first Rector. This was the situation when Sayrus arrived in Rome.

It is a pity that an English secular priest was not appointed to supervise the education of English secular students, for internal dissensions continued to retard the work of the College right up to the Suppression of the Society ; but it must be said that though the Jesuits at the College supported the students in their revolt against the Rector, Dr. Clenock, the General of the Society, Fr. Mercurianus, forbade them to interfere, and was from the beginning anxious to have nothing to do with its government, and only undertook the work at the command of the Pope.<sup>1</sup> Thus were the stormy beginnings of the English College. It is one of the earliest national colleges in Rome, being preceded only a few years by the German College.

Sayrus' departure from Rheims in the company of six other students is recorded in the Douay Diary: "1582 3a die Septembris Roman missi sunt ad Anglorum Seminarium septem ex nostris, viz., D. Ric. Leighe, D. Ric. Saire, Robertus Jones, Mattheus Kellison, Ric. Edwardes, Andreas Wage, Laurentius Owens."<sup>2</sup> He is called Richard in error. A letter sent by Dr. William Allen to Fr. Alphonsus Agazzari, S.J., dated Rheims, Sept. 2, 1582, gives a brief description of the young man, "Robertus Sarus est etiam pro Theologia latine et graece peritus, honestissimis moribus praeditus." Of his companions, Matthew Kellison was the most famous ; he taught theology at Rheims and became the tenth President of Douay in 1613. William Flacke, who accompanied him in the first instance from Cambridge to Rheims, also came to Rome two years later. The party arrived at the College on November 6th, 1582, and on the 29th June of the following year Sayrus took the oath with the rest.<sup>3</sup> Here he remained

<sup>1</sup> Gasquet op. cit. p. 75.

<sup>2</sup> II. Douay Diary (Ed. Knox) p. 190.

<sup>3</sup> D.N.B. Vol L, p. 390.

for the next six years, but apart from the dissensions and controversies which were the occasion of his entering religion, there is very little to record.

The papal brief which founded the College conferred on it the status of a university, but the faculty of granting academic degrees was never used. The students attended the lectures at the Roman College, and after the suppression of the Society, at the Apollinare.<sup>1</sup> Sayrus was therefore fortunate in being able to attend the lectures of Francis Suarez and Gabriel Vasquez; the former taught at the Roman College from 1578 to 1585,<sup>2</sup> the latter from 1581 to 1587. Of the two great Jesuit theologians who were more or less rivals in the Roman School,<sup>3</sup> Vasquez certainly exercised the greater influence, and is continually used in the writings of Sayrus, who, nevertheless, frequently departs from the teaching of his master in favour of his own independent judgment. The extent of his reliance on these two authors will become clear in the course of this dissertation. Besides the lectures, the students from the beginning took part in public disputations and Gregory XIII. showed his special interest in the College which he had founded by submitting to sermons and speeches delivered by the students.

Details of these various public acts are contained in a volume still existing in the archives of the College; the record is incomplete and Sayrus' name is not found in the extant manuscript, but it is extremely unlikely that he took no part in these exhibitions, considering his theological acumen and reputation. An estimate of the theological knowledge acquired by Sayrus during the five or six years spent at the College, may be gathered from the fact that only a year after joining the Benedictines he was appointed professor of Moral Theology at Monte Cassino.

The spiritual fervour which animated the students in the year Sayrus entered the College, is described in a letter of that year: "The fervour of our students shows no signs of flagging, on the contrary it grows more intense as the condition of their wretched country is the more deplorable. They are all earnest in prayer, and so given to bodily austerities as to need the bridle rather than the spur. . . As prudent wrestlers, they seek by the practice of self-conquest in private, to fit themselves to encounter one day the implacable hatred of the heretics, and thus more easily withstand their assaults and their cruelty; in their self-imposed austerities, having in view

1 Cronin. Cath. Encyclop. Vol. V, p. 472    2 Hurter Nomenclator Vol. III, col. 377.    3 Guilhaemy. Menologe de la C. de J. III., 111.



the tortures that await them should they chance to fall into the hands of those who are thirsting for their blood. They ever bear in mind that they are a remnant snatched from the ruin of their country, and gathered together here by a special favour of Divine Providence, to fit themselves by virtue and learning to free England from the yoke of heresy, even though the sword of the foe bar their path, and their own life blood be the price they have to pay for ransoming souls from the dark captivity of falsehood and error."<sup>1</sup>

A visitor has recorded a painting to be seen over the entrance to the chapel of their country house, representing a youth in collegiate dress holding a scroll whereon was inscribed "O Bone Jesu! converte Angliam: humillime supplicat collegium Anglicanum de Urbe."<sup>2</sup> Many of their number like Sayrus, had some practical experience of the hatred of the heretics, and more than one—as John Tippets, whose ears were bored through with hot irons—bore about in their bodies the marks of persecution.<sup>3</sup> Every now and then news would reach the students of the martyrdom of some of their companions, who had proceeded to the English Mission; the long list of martyrs and confessors has always been the most glorious page in the history of the College.

Pope Gregory XIII., during the years 1580-1585, allowed the relics of these martyrs to be used in the consecration of altars, and gave permission for the Te Deum to be sung on the news of the death of any missionary priest for the Faith. No less than twenty-five of these martyrs were at the College as students during Sayrus' period, including Richard Leigh, who accompanied him on the journey from Rheims, and took the oath with him on the same day. He was martyred at Tyburn, August 30th, 1588.<sup>4</sup>

One can imagine the effects of these happenings on the ardent spirit of youth, and for Sayrus at least they made an impression that was never effaced, so that years afterwards in the seclusion of his monastery he dedicated his first printed work to his former companions in the following terms: "Admodum illustri Ecclesiae Anglicanae Clero universo. Gloriosis Christi Confessoribus, Martyribus designatis, ac dominis in Christo observandissimis. Etenim Clerus vester ob egregia Spiritus Sancti charismata, ob virtutes heroicas et vere sacerdotales tantum praelucet vulgo clericorum quantum Christianorum vulgo multi sacerdotum. Plerique enim sacerdotes div-

1 Foley Records VI p. 81.

2 Gasquet op. cit p. 193.

3 Ibid p 119. Tippets was at the College from 1580—1584.

4 Gasquet op cit p. 129.

ino quidem jure utentes ex altare vivunt, vos ad divinam charitatem proxime accedentes, pro altaris et Sacerdotii defensione vitam propriam exponitis. Plerique sacerdotes propter Christum in summa Reipublicae luce vivunt, auctoritate pol-  
lent, honoribus illustrantur, vos vero quamvis nobilitate clari, insignes eruditone, patrimonioque locupletes, obscuri tamen, ignobiles, inopes, infames, omnium denique civium vestrorum peripsema ob Christum, et anathema estis, postquam in charissima patria nostra Catholica fides caepta est haberi flagitium, Sacerdotium scelus, et publicum crimen esse Christi Domini . . . Vos interim felices Christi milites quibus fere solis datum est non solum ut in Christo credatis, sed etiam ut pro Christo extrema quaeque patiamini; ut merito mirentur universi, undenam in solis fere Anglis tantus fidei ardor insit, tam invictus in veritate asserenda animus? Et cum ubique idem Deus, et eadem Ecclesia sit, quae passim impugnatur, rarissimus tamen in reliquo orbe (extra insulas nostras) reperiat qui tanto periculo, probro, et profusione sanguinis sui, Ecclesiae Catholicae pro muro sit . . . Quid enim optatius et laetius possit accidere, quam nunc vobis inhaerere, ut complecteremini nos manibus illis, quae purae et innocentes, et dominicam fidem servantes, sacrilega obsequia respuerunt? Quid jucundius et sublimius quam nunc ora vestra, quae gloriosa voce Dominum confessa sunt, conspici etiam presentes oculos vestros, qui despecto saeculo, conspiciendo Deo digni extiterunt. . . Honori nos vestro charitas individua connectit. Separari dilectionem spiritus non sinit. Vos illic confessio, nos affectio concludit. Et nos quidem vestri diebus et noctibus memores, et quando in sacrificiis precem cum pluribus facimus, et cum in secessu privatis precibus oramus, coronis et laudibus vestris plenam Domini faventiam postulamus . . . Det vobis Deus invictae fidei vestrae de superba perfidia victoriam, nobisque vestrae gloriae in aeterna requie societatem." <sup>1</sup>

One is naturally tempted to enquire, reading his glowing praises of martyrdom, the reason why Sayrus spent his life in the comparative luxury of a Benedictine Monastery instead of following his companions in the arduous and dangerous work of the English mission. The point is an important one for his reputation, for not a few students in our Colleges abroad during this period, after being ordained, joined Religious Orders on the Continent rather than face the perils of the priestly life in England, and it was to prevent this leakage that the oath was administered to young men imme-

<sup>1</sup> Dedication. *Thesaurus Casuum Conscientiae* . . de Censuris. The latter part is quotation from S. Cyprian Ep. 81.



diately on their arrival at the Colleges. I am naturally anxious to show that Sayrus is not to be numbered amongst these backsliders, for even though his theological knowledge is of the very first order, one would have little esteem for a man who turned his back on the plough from unworthy motives of fear for his own safety. We must therefore see the reasons why in the first place he left the English College, and secondly why having joined the Benedictines he did not proceed to England.

With regard to the first point, Sayrus was only one of a large number of students who left the College owing to their profound disapproval of the Jesuit administration. We have seen how in 1579 the students had been similarly discontented with the administration of the Welshman, Dr. Clenock, and the Pope had settled the matter by dismissing Dr. Clenock and placing the College under the sole charge of the Jesuits. Dr. Clenock left Rome and according to the account in the National Dictionary of Biography was drowned at sea whilst on a voyage to Spain. But unfortunately the disputes were not ended, and when as the natural result of Jesuit rule four students joined the Society and were consequently lost to the Mission, Dr. Allen, "weary of his life," came to Rome to attempt a settlement by his own great influence. Up to this time the Fathers of the Society had taken no part in the English Mission, as the risks of life were greater than in the existing Jesuit Missions, but Allen, who was a sincere admirer and friend of the Jesuits, proposed to secure help from the Society for the work in England, and he was supported by Fr. Parsons and Fr. Acquaviva, the future General, who is even said to have offered himself as one of the missionaries to England.<sup>1</sup> He carried his point and returned to Rheims believing that the fact of the Jesuits and secular clergy being united in the dangers of the mission would smooth over the domestic dissensions in the English College. Discord however continued. There can be no doubt that in Rome as in the other colleges emissaries were deliberately sent as spies by the government of Queen Elizabeth to sow discord and thus hamper the training of Catholic clergy, but this certainly cannot be regarded as the prime origin of the trouble. Nor is it true that Dr. Owen Lewis, the co-founder with Allen of the English College, allowed his antipathy for the Jesuits and schemes for his own advancement to stir up the students against their superiors.

The reasons given in the report of Cardinal Sega's commission, appointed by Pope Sixtus V. in 1585 to enquire into

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1 Gasquet, *op. cit.* p. 82.

the students' supposed grievances, appear to a certain extent trivial. It does seem at first sight an extraordinary thing that men who were cheerfully prepared to suffer torment and death in England should resent the petty annoyances of life in a Jesuit Seminary. One of them complains that "the Jesuits have no skill nor experience of our countries state . . . their trade of syllogising there is not fit for the use of our people." Further the discipline, though suitable for children, was altogether too annoying and harassing for young men. They asserted that Fr. Agazzari made use of their companions who intended to join the Society for the purpose of spying on the rest. In a word they demanded an English secular priest to rule the College, as being better calculated to understand their character and customs, for the Jesuit method was not suitable for the education of secular clergy for whom the College had been founded.<sup>1</sup>

By this time the English students in Rome had earned the reputation of being an unusually turbulent body, and Pope Sixtus V. disgusted at these quarrels and divisions, withdrew the annual subsidy of 3,000 scudi which his predecessor, Gregory XIII. had always allowed from the Papal treasury: the College had accordingly to be reduced in numbers. On the other hand it must be said for them that their position was an extremely unfortunate one; the inability of the people of one nation to understand the peculiarities of another is now at least well recognised; it is also an established fact, evidenced in the lives of many saints, that an heroic spirit of mortification can exist side by side with "touchiness" concerning personal independence. This at least is recognised by the report of the commission of 1585 which concludes: "putting on one side their spirit of independence, we have heard nothing grave against them, but have seen evidence of their modesty, continence and great piety."<sup>2</sup> No doubt there were some unruly spirits amongst them; a further commission held eleven years later is much more severe, but the enquiry during Sayrus' time resulted in meeting their demands rather less than half way. The College was left under the Jesuits, but an English Jesuit, Fr. Holt, was appointed in the place of Fr. Agazzari.

From the years 1578-1595 out of three hundred and three students admitted to the College thirty one had joined the Society. Difficulties and dissensions continued for years and it would have been for the general peace if the wishes of the General of the Society had been acceded to, and the Jesuits had retired altogether from the management of the College. There is no record of the part played by Sayrus, nor indeed of

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<sup>1</sup> Gasquet op. cit p. 89.      <sup>2</sup> Ibid p. 90.

any individual student during these disputes, but his position on one at least of their grievances is evident from his subsequent teaching on the obligation of obeying a superior's command to reveal the sins of another: "Quando superior id jubet manifestari praecipue ad emendationem delinquentis, vel ad impediendum peccatum mortale, aut ne malum proximo inferatur, aut ut illatum ei reparetur, tunc si malefactor sit emendatus vel speratur verisimiliter emendatio seu satisfactio partis, not est licitum denunciare. . . Quando res est secreta, vel tribus aut quatuor nota, iudexque ad poenam procedere intendit, tunc quamvis superior edictum generale vel speciale facit sub excommunicatione praecipiens, ut qui novit veritatem manifestet, non tenetur revelare."<sup>1</sup> And that he was not a fire-brand is evident from a description of his character at this time given by one who was a fellow student with him at the College: "In Anglorum Collegio mihi diu familiariterque notus, studiorum socius, et amicus optimus fuit circa annum Domini 1585 et quod concurrit. Erat sane vir integritate vitae, morum suavitate, et singulari modestia, Deo et bonis omnibus amabilis."<sup>2</sup>

As a matter of fact these rather trivial grievances exposed in the report were not the real ones, but they were given by the students because of the futility of putting before the commission the real cause, i.e. their national sympathies, because these were directly opposed to the line of conduct adopted towards English affairs by the Roman authorities. The dispute really turned on the thorny question of national politics, for the English College naturally reflected in its members the terrible situation which had arisen at home. In 1570 the Bull "Regnans in Excelsis" of Pius V. deposed Queen Elizabeth and absolved her subjects from allegiance, but the opinion of Catholics on the subject of the succession to the crown was divided. One party led by Fr. Parsons S.J. supported the Spanish claim with the full approval and assistance of William Allen who, though he has earned undying fame for his work in providing for the education of the English clergy, in the realm of politics was less successful. The other party consisting of the majority of the secular clergy and the great body of English Catholics in common with their Protestant countrymen, regarded Spain as the inveterate enemy of England, and it was largely due to the assistance of Catholics that the Spanish Armada was defeated 1588; they preferred to have a protestant Englishwoman ruling England than a Catholic Spaniard, and this loyalty to Cæsar as well as God is a

1 *Clavis Regia*, Lib XII, c. xiv, n. 27, 28.

2 John Pitts, "*De Angliae Scriptoribus*," p. 800.



notable characteristic of many of the martyrs who died protesting their loyalty to the Queen. The opposition between these two parties and the consequent distrust and jealousy which was generated was gladly fostered by the Government both at home and in the Colleges abroad; it was the chief cause of the dissensions between the secular students and their Jesuit superiors in the English College. That Sayrus was of the anti-Spanish party, together with the majority of the secular students, seems to me the only interpretation of a rather obscure passage in the dedication already quoted. "*Aut si inter omnes totius orbis catholicos soli Angli ita insanirent, ut Majestas Patria, et splendor ille Anglicani nominis et Imperii ipsis displiceret, mallentque, quam Regibus fideles esse suis, externam dominantem sequi. Sed repriman me, ne amoris aestus patriae amantem abripiat extra oras institutae orationis. Haec enim satius est (quod soleo) intus in silentio deflere apud Deum, in cuius manu est cor regis, obsecrareque per omnem Christi charitatem, ut illa fingat et immittat in ea consilia, quae et nunc et tunc Principem populumque juvabunt.*"<sup>1</sup>

A last cause of dissension must be mentioned, as it had a far reaching effect on the relations of seculars and Jesuits. The English clergy had frequently desired to have Bishops appointed to rule them, the Jesuits were completely opposed to the project even to the extent of imprisoning in the English College two priests deputed by the clergy to present their case before the Pope.<sup>2</sup> The effect on the students as Cardinal Gasquet says, can better be imagined than described. Small wonder therefore that in the midst of all these dissensions and discords the thoughts of Sayrus turned towards the family of St. Benedict whose motto at least was P A X.

### Section 3.—Monte Cassino 1588-95.

The dissensions between the Jesuit Superiors and the Secular students in the English College, which have just been recorded, were only a reflection of a much more serious situation in England, and looking back on it now we can only regret the animosity which could arouse the bitterest quarrels among confessors imprisoned in Wisbeach Castle.<sup>3</sup> We advert to it here because in the judgment of Dom Bede Camm, O.S.B., it is one of the causes of the restoration of the Benedictines in England, and the reason why Sayrus and others left the secular clergy and joined them. Peaceful

<sup>1</sup> Dedication. *Thesaurus Casuum Conscientiae*.

<sup>2</sup> Tierney-Dodd, III, p. 52.

<sup>3</sup> Tierney-Dodd, ch. IV, V.

men knowing more harm was being done to the cause of Catholicism by these dissensions, than by the Penal Laws, saw in the Order of St. Benedict a way of avoiding the feverish quarrels of both parties, and hoped that the spirit of St. Augustine if revived again would convert England once more to the true faith.<sup>1</sup> Canterbury, Westminster, Glastonbury, and the other Abbeys had fallen and there was scarcely a monk to be found in England,<sup>2</sup> so that there were some who feared that in the event of a Catholic Restoration the Benedictine property would be claimed by the Jesuits.

But whatever the cause, it is certain that by about 1587 thoughts were turned towards the Benedictines. From the English College in Rome, Thomas Preston and others followed Sayrus to Monte Cassino, Anselm Beech and Athanase Martin joined the Monastery at Cava.<sup>3</sup> The same is true of the other Colleges. At Valladolid many joined the Benedictines in the face of great opposition on the part of the Jesuit Superiors<sup>4</sup>; Mark Barkworth for example could only obtain permission to make his vows at the hour of death, which he did—donning the Benedictine habit as he ascended the scaffold.<sup>5</sup> The entries of Englishmen at Monte Cassino at this time were sufficiently numerous to be noted by Ziegelbauer “... etiam Anglos Montis Cassini coenobitas, viros et doctrina et virtute conspicuos commemorat Angelus Nuceus (Chron. Cassin. lib iv, c. 108). Bonis avibus totos divisos orbe Brittanos Cassinum appulisse semper comperimus. Patrum nostrorum aevo inde habuimus Sayrum, vitae sanctimonia venerabilem, editis voluminibus clarum: Thomam Praestonum doctissimum in primis theologum, cuius theologicos commentarios manu exaratos vidimus: Michaellem precedentibus non imparem: Bernardum nuper prefati Thomae consanguineum, magna sanctitatis opinione defunctum. Ex proxima Anglis Hibernia habemus Rachisium...”<sup>6</sup>

The question which arises, and it is an important one for his reputation, is how Sayrus' monastic profession can be reconciled with the oath which he took on entering the English College in June 1583, binding himself to serve on the English Mission.<sup>7</sup> At the time of the papal foundation of the English College a few years previous to Sayrus' admission, no obstacle was placed in the way of a cleric who wished to join a Religious Order, and in the case of Benedictine

1 Revue Benedictine, Vol. XII, p. 361.

2 Dom Sigbert Buckley in 1607, after 40 years in prison, affiliated two of the newcomers to Westminster Abbey, thus linking the old and the new.

3 Revue Benedictine, *ibid.*

4 *Ibid.*, p. 370.

5 *Ibid.*, p. 366.

6 Ziegelbauer, I c ii § 1.

7 The form of oath & its variants: v. Foley Records, VI, 127.

vocations the Roman Congregations decided definitely that they were not a bar to admission into a Pontifical Seminary.<sup>1</sup> This concession became abused and the Mission Oath was imposed on all newcomers, by which they undertook not to join a Religious Order but to remain among the secular clergy on the mission. A similar oath was taken by all candidates for the Sub-diaconate in English Seminaries up to about twelve years ago. The fact of Sayrus never having gone on the English Mission can be explained by supposing that he obtained a papal dispensation releasing him from the obligations he had undertaken, and there are several examples of such dispensations granted when the circumstances seemed to demand that course.<sup>2</sup> And in Sayrus' case such a dispensation would have easily been granted, for though there exists no direct reference to the fact, it is certain from the following points that he joined the Benedictines with the object and the intention of serving on the English Mission as a Benedictine.

Armellini asserts that before going to Cassino he was already a member of the English Benedictines "*Gregorius Sayrus Congr. Benedictinae Anglicanae primum alumnus, ac inter praecipuos eiusdem alumnus, deinde in Casin. Monasterio nostris agregatus.*"<sup>3</sup> I can find no reference as to where or when he made this profession, and can only surmise that this early company of Englishmen at Monte Cassino were given a home there until they were ready to return to England, and eventually became affiliated to Monte Cassino. Certainly in 1594 the Chapter General of the Congregation requested permission from the Holy See to send its subjects into England, and the permission was refused.<sup>4</sup> On the other hand the Thomas Preston already referred to as being among the English at Cassino, either obtained permission or went without it, for he died in prison in 1640 after working for forty years in the country.<sup>5</sup> Moreover, one of Sayrus' companions at the English College who had entered the Benedictine Monastery at Cava, had the full approval of Cardinal Allen who was the last person to countenance any loss to the English Mission. Writing to him he encouraged him to persevere in his vocation: "I hope that in retiring from this sad world you are going to contribute to the restoration of the holy Order which till lately was so flourishing in our country. The more you progress in your holy discipline the more I will love you, and you will have no cause to repent of your resolution."<sup>6</sup>

<sup>1</sup> Kirk "Biographies of English Catholics" Introduction.

<sup>2</sup> Ibid. <sup>3</sup> Armellini, *Bibliotheca*, Pars. Ia. p. 190.

<sup>4</sup> *Revue Benedictine*, XII p. 361. <sup>5</sup> D. N. B., Vol. LXI, p. 181.

<sup>6</sup> *Revue Benedictine*, *ibid* quoting from Dom Bennet Weldon's Chronological Notes, Stanbrook 1861.



Finally Dom Bede Camm says that Sayrus was on the point of returning to his country when he died at Venice.<sup>1</sup> It is a pity that on this important point there is no definite information, and surmise is not veracious history, but one may certainly suppose that his Superiors found his theological talent so useful, that they either delayed his departure or refused it altogether, preferring to have a live theologian than a dead Confessor. In thirteen very full chapters of the *Clavis Regia*, Sayrus sets out his own teaching on the nature of oaths and vows. "Irritare potest juramenta omnis ille qui dominium et potestatem in rem promissam habet. Idem dicendum est de Papa respectu clericorum, seu rerum ecclesiasticarum, quarum Dominus est, et plenitudinem potestatis super eas habet . . . tantum de rebus ad Ecclesiam pertinentibus . . . . Constat ad irritandum juramentum non esse necessarium consensum eius qui juravit, sed irritari potest illo invito et renuente, dummodo velit ille penes quem est dominium eius rei quam juramento promisit."<sup>2</sup> "Addidi autem teneri subditos illis (superioribus) obedire, etiamsi ab illis post confirmationem sine causa irritentur, nec obediendo peccare quia per talem confirmationem non solvitur ratio subjectionis, etiam in illa re, quare in favorem obedientiae debet inferior obedire, et imputatur culpa superiori."<sup>3</sup> Among the causes which justify the granting of a dispensation, having pointed out that the same reasons apply both to oaths and vows, he mentions "bonum commune," e.g., "Item vovit quis peregrinari ad Terram Sanctam, et tamen expedit Ecclesiae ut aliter ei inserviat, causa justa erit dispensandi."<sup>4</sup>

Sayrus was already ordained priest at the English College in 1585.<sup>5</sup> Dodd says that soon after this he became a monk in Monte Cassino; Cooper also puts the date of entry about 1585.<sup>6</sup> The Dictionary of National Biography, following Foley,<sup>7</sup> puts the date at 1588, which appears to be correct, for it coincides with the general movement for reviving the English Benedictines which did not begin till 1587. Moreover Sayrus was not professed till 1589 and it is unlikely that he would have been kept four years before being professed. The list of professed Fathers in the Archives at Monte Cassino gives the date of his profession there as December 28th, 1589, when he took the name of Gregory.

Monte Cassino was then at the height of its material and spiritual prosperity. United to the reformed Congregation of

1 Ibid.      2 *Clavis Regia* Lib V. c. viii, n. 5 and 6.      3 Ibid n. 6.  
4 Ibid Lib VI. c. xii, n. 29.      5 Foley Records V. p. 154.      6 Dodd  
Church History Vol. II. p. iv. Bk. ii. art. 5: Cooper *Athenae Cantab.*  
Vol. II. p. 334.      7 Foley *ibid.*

St. Justin of Padua by Julius II., in 1504, it quickly regained something of its old splendour and magnificence, and took the lead in every form of literary activity, especially in patristic and scriptural scholarship. Under the rule of Hieronymus V., one of a long line of famous abbots,<sup>1</sup> they had made a ready response to the efforts of reform set on foot by Cortese, and this century showed a remarkable contrast to the stagnation of its predecessor. "Etenim saeculi huius quasi inopiam, quod proxime consequutum est virorum doctorum ubertate affatim compensavit. Nullae enim litterae, graecae latinae hebraicae, humanae et divinae, in quibus Cassinates non fuerint eximie versati."<sup>2</sup> In the particular branch of Moral Theology however, they had not achieved any eminence. Ziegelbauer mentions Thomas ab Ebulo and Theophilus Senensis as Moral Theologians,<sup>3</sup> but they are not of sufficient importance to be mentioned by Hurter; Graffius, the only other name that can be bracketed with Sayrus, was at the monastery of St. Severinus in Naples.<sup>4</sup>

Sayrus' erudition was therefore a valuable asset to the Monastery and it was recognised from the time he entered, as he had already acquired some reputation in Rome. He was made the professor of Moral Theology immediately after profession, and taught the subject until his departure from Monte Cassino in 1595. ". . . et in Anglicano Collegio Theologiae operam dedisse, eo quidem successu ut perfectissimus theologus evaserit, eamque postea facultatem (nostris ubique adscriptam) in Casin. Archisterio sedulo docuisse."<sup>5</sup> His renown as a teacher is mentioned in the monastic accounts of some of his scholars who afterwards became famous, for example Simplicius Caffarellus.<sup>6</sup>

None of his works were published during this period at Monte Cassino, but the matter was being gathered together which was afterwards to be printed at Venice in a series of books appearing in remarkably quick succession. The period of less than seven years at Cassino must therefore have been one of great intellectual activity, and considering his published works and the number of minute and intricate questions discussed in them, one can endorse the statement in the preface to his first book, even making allowance for the fulsome description which authors of the time were accustomed to prefix to their works.

1 M.A. Scipio. *Elogia Abbatum Sancti Monast. Cassin.* Naples 1643 p. 225. 2 Zieglebauer op. cit. Vol. 1 p. 197.

3 Ibid II. cap. i. section 4. 4 Ibid and I. c. iv. p. 349.

5 Armellini I. p. 193. Cf. also Athenae Cantab II. p. 334.

6 Scipio *Elogia Abbatum* p. 255 "Greg. Sayro prae excellenti doctrina et magni nominis praeceptore."



After making a reference to the "*immensam rerum supellectilem, et ingentem materiae molem, confusam tamen adhuc et indigestam apud me collectam and reconditam,*" he says: "*Non adjiciam, quia vix satis explicare queam, quantum olei et operae insumpserim, quales noctu vigilias, et diu labores exantlaverim, quot in eo componendo, et expoliendo difficultates superaverim, quandoquidem infinitos libros et auctores legere et evolvere, ac proprium ingenium exercere oportuit.*"<sup>1</sup>

In 1595 having acquired a great name on account of his learning he was moved to the Monastery of St. George in Venice.<sup>2</sup>

#### Section 4.—Venice 1595-1602.

The Monastery at Venice where Sayrus spent the remainder of his life is called St. Gregory's by Dodd, and also by Pitts his former companion at the English College, who writes: "*Anno autem Domini 1595, mense Septembris denuo veterem amicum vidi et salutavi in monasterio S. Gregorii Venetiis.*"<sup>3</sup> All the other sources call it St. George's and though it may have had a double title, this is the one by which it is generally known. A medieval foundation, it had become very prominent during the period when Cortese was Abbot, and being more accessible than Monte Cassino, it had become a centre of learning not only for Benedictines but for all the scholars of the time. Dom Bede Camm says that Sayrus was on the point of returning to England when he died at Venice. I think this must be an error, as whatever had been his original intentions, it is evident from the prefaces to his books which began to be published at this time, that he had now become completely reconciled to the fact that his was a literary and not an active missionary vocation.<sup>4</sup>

In the dedication of his first work "*De Sacramentis in genere*" addressed to Clement VIII. he likens it to the First Fruits of sacrifice which the Israelites offered after their escape from Egypt: "*Huius ego mysticae legis memor, ac preceptum divinum sedulo mente revolvens, Angliam, si vel persequentium saevitiam, vel saevientium caecitatem attendas, alteram plane Aegyptum fugiens, atque post maris Oceani transacta pericula, in Italiam, terram promissionis mihi semper habitam, veniens, et deinde Romam, civitatem sanctam, communem Catholicorum matrem visitans, ac tandem aliquando divina favente gratia, volente and vocante Deo, Divi*"

1 Preface to "*De Sacramentis in Communi.*"

2 *Athenae Cantab.* II. p. 384.

3 Pitts *De Angl. Scriptoribus* p. 800; Dodd *Church History* II. p. 142.

4 *Revue Benedictine* Vol. XII. p. 361.

Benedicti Ordinem, licet ubique sanctissimum, ob Regularem tamen Casinensis Congregationis, and presertim Sacri illius Casinensis Coenobii observantiam, toto terrarum orbe celeberrimum, ingressus fuerim, omnem operam studium et dilligentiam adhibendam esse censui, ut inter alios quamplurimos eiusdem Ordinis . . . aliquid ipse etiam fructus colligerem, quos ante altare Domini, in presentia sacerdotis summi suo tempore ponerem, et offerrem. Hanc enim intentionem, hoc desiderium semper habui, ut placeret oblatio mea in conspectu Domini."<sup>1</sup>

From a phrase in the dedication of "*De Censuris Ecclesiasticis*" addressed to the English Clergy, it is evident that the scarcity of Benedictines in England during these dangerous times had aroused some bitter comment. The first in the field were the secular clergy, then towards the end of Elizabeth's reign the Jesuits. The Benedictine movement did not begin, as we have seen, till about 1587. After expressing his admiration for the lives of the missionary clergy he adds: "*Haec eo liberius quo verius protestamur quod nonnullos (nescio quo spiritu plenos) esse, non sine maximo dolore accepimus, qui in angulis et latebris obmurmurantes affinant quod Benedictus non amat proximum. Ceterum huiusmodi genus hominum, eorum calumnias et in Evangelio Christus, et in Evangelica sua regula gloriosus Pater et Patriarcha Benedictus patienter sufferre nos docuerunt. Sciant tamen et intelligant, qui talia feruntur dicere, tam aliena esse haec a veritate quam ipsi a charitate absunt. Nemo autem quietem nostram otium esse putat, aut vacationem nostram credat esse desidiam, cum prudens quisque et expertus facile intelligat, in proeliis spiritualibus absque corporis presentia, magna praestare. Neque enim Aaron et Hur contra Amalech arma induerunt, neque otiosi (credo) fuerunt, qui Moysi in monte astantes, sustentabant manus eius ex utraque parte: ita ut cum levaret Moyses manus vincebat Israel. Et quis scit si divino consilio ex Anglis quidam, etsi imperfecti, semper Gregorio adsint in monte monasticae perfectionis et imbecilla conantium obsequia perpetuent, et impetrent Sancti Viri patrocinia ut manus ipsius non lassentur usque ad occasum solis. Interdum vero vos cominos cum hoste confligitis nos ad sarcinas vestras stamus. . .*"

"*De Sacramentis*," his first published work appeared at Venice in 1599. Possevinus, S.J., who has collected a great deal of information concerning the writers of his time is in

<sup>1</sup> Dedication "*De Sacramentis in Genare.*"

<sup>2</sup> Dedication to "*De Censuris Ecclesiasticis.*"

error in putting it as late as 1601, for 1599 is the date on the copy I am using.<sup>1</sup> For some reason, after leaving Monte Cassino, Sayrus turned his mind more to dogmatic theology, and this book, which will be examined in the course of the dissertation, is in the form of a Commentary on the Summa of St. Thomas, treated in a dogmatic and polemical manner. This is the only dogmatic work he has written, and seeing that all his previous study had been concerned with Moral Theology, he was persuaded to keep to that, doubtless on the principle "*tractant fabrilia fabri*." "*Quia vero dum reliquos tomos quos tunc promisimus (i.e., companion volumes to De Sacramentis promised in the preface to that work), in lucem emittere studeremus, nonnulli saepius graves, doctique viri (quorum apud me plurimum semper valuit et valere debet auctoritas) vehementer instabant, ut scholasticis illis disputationibus, et cum hereticis concertationibus, ad tempus dimissis, de quibus multa a doctissimis viris subtiliter sunt hactenus disputata, eruditeque conscripta; ad moralem potius doctrinam (de qua licet multa sparsim scripserint, vix tamen aiebant esse aliquid his temporibus ita abunde et accomodate, prout res ipsa postulant elaboratum) exornandam perficiendamque, ingenium et studium accomodarem.*"<sup>2</sup>

He began therefore to produce a complete Moral Theology which he at first designed to be in three volumes, entitled "*Thesaurus Casuum Conscientiae*." The first was "*De Censuris Ecclesiasticis*," published at Venice in 1601, a folio of about 600 two column pages. In preparing the next volume he decided that the whole work would have to extend to four instead of three tomes. His own intentions are clearly indicated in a letter to Possevinus: "*ex nostris (operibus) ea solum a P.V. hactenus legi potuerunt quae ante triennium de Sacramentis in Communi, ex theologia scholastica in sex libros distributa, et ante biennium de Theologia Morali, seu de Casibus Conscientiae et Censuris Ecclesiasticis in libros septem distincta, impressa Venetiis in lucem dedimus; tomus enim secundus Theologiae Moralis in duodecim libros divisus jam sub prelo sudat, reliquos duos paulo post, Deo adjuvante et vita superstite edituri.*"<sup>3</sup> Possevinus says this letter was written "*paucissimos dies antequam ex hac vita decederet.*" The volume on which he was working at the time of his death was practically finished and was published posthumously. It deals with principles and the decalogue, and from the point of view of Moral Theology is the most important of his writings.

1 Possevinus "*Apparatus Sacer*," p. 592.

2 Preface "*De Censuris Ecclesiasticis*."

3 Possevinus *ibid*



Two other smaller works must be mentioned which were published the year before his death: "*Decisiones Casuum Conscientiae*," and "*Summa de Sacramento Poenitentiae*," both based on the works of Navarrus, the first on the "*Consilia*" and the second on the "*Commentaria in septem distinctiones de Penitentia*."<sup>1</sup>

Sayrus died on the 30th of October, 1602, aged 42.<sup>2</sup> His position as a Moral theologian will be discussed in the following pages. As regards his personal character there are a few stray references to be gathered from monastic chroniclers and others: "*religiosissima sacri institutionis observatione, vitaeque innocentia admirabili*"<sup>3</sup> "*summa vitae integritate, suavitate morum, singularique modestia Deo et hominibus amabilem*"<sup>4</sup> "*vitae sanctimonia venerabilem*."<sup>5</sup> But the best witness is the account addressed to the Cardinal Protector of the Cassinese Congregation, by D. Maurus, an English member of the same Congregation, and prefixed to the posthumous edition of "*Clavis Regia*." "*Ecce igitur strenuum athletam Christi, mundi antagonistam, legitime certantem ut vinceret, currentem ut comprehenderet . . . qui in media vitae curriculo ad amplissimam hereditatis praedam rapiendam violentus ingreditur. Ecce instructissimum sacrae Militiae monachum. Ecce demum in vase fictili Thesaurum Evangelicum, in quo divitiae salutis, scientia scilicet et sapientia, conditae sunt et consignatae, qui . . . praelucentem virtute et sanctimonia animam Deo reddidit immaculatam. Nihil enim illi dulcius cariusque fuit quam alios ad justitiam erudire . . . inimicos crucis Christi fortiter sustinuit, dissidentes hereticorum animos suaviter attraxit. Nam praeterquam quod ipsa vivendi ratio sit assidua praedicatio, nunquam tamen defuit quod orando receperat, operando refundere, quod sine fictione didicerat, sine invidia communicare, nec activam vitam amore speculationis omnino deserens, nec contemplationis gaudia operationis nimietate contemnens, sed omnibus omnia factus ut omnes lucrificeret, de plenitudine in proximum eructavit quod exhauserat, et eloquii sui imbrem distillavit quem absorpserat. Probe enim noverat se illius Benedicti ramum fuisse, quod in tempore siccitatis non erat sollicitum, nec aliquando desinet facere fructum.*"<sup>6</sup>

His early death at the age of forty-two cut off in its prime a life of great promise, and it was universally lamented.

<sup>1</sup> A fuller description of his works and the various editions infra. ch. IV.

<sup>2</sup> Athenae Cantab. II. p. 384. Foley Records V. p. 154. Dodd II. 142.

<sup>3</sup> Scipio. Elogia Abbatum Cass. p. 245.

<sup>4</sup> Hieronymus Ghilenus II. p. 161 (Armellini I. p. 193).

<sup>5</sup> Angelus de Nuce. Chron. Cassin. IV. p. 108 n. 2013.

<sup>6</sup> Preface to *Clavis Regia*.

The few people who are acquainted with his works say that had he lived to a maturer age he would have attained to the first place among theologians. Thus Bouquillon, a modern author, of wide reading and erudition, says of him: "Inter magnos theologos Sayrus annumerandus, maximis, si diutius vixisset aequandus."<sup>1</sup> But even in spite of his early death, it will be seen from the list of his works<sup>2</sup> that he contributed no small amount to theological literature, and in the course of the following pages an attempt will be made to show that what he has written deserves consideration, and is of sufficient importance to preserve his memory among the great theologians of the past.

## CHAPTER II.

### A SURVEY OF MORAL THEOLOGY UP TO 1665.

Section I. The Patristic Period. Apostolic Fathers and Apologists. St. Ambrose, St. Augustine, St. John Chrysostom. Canons and Decretals. Asceticism. Gregory the Great. Penitential Books. The Sentences.

Section II. Scholastic Period 1200-1564. The Scholastic Revival and its characteristics. The Summists and Jurists. St. Antoninus.

Section III. Tridentine Revival 1560-1665. Commentaries on St. Thomas. Polemical Theology. The Casuists.

In order to define Sayrus' position, it has been found necessary to outline first of all the historical development of Moral Theology. For Sayrus combines in his work many aspects of the subject which in former ages were kept quite distinct. He treats Moral Theology speculatively as well as practically, for his aim was to write something which would be of use to the ordinary clergy engaged on missionary work, especially the English Clergy. His repute as a jurist was even greater than his fame as a theologian. Therefore, what to many will appear a grave fault, he unites Canon Law with Moral Theology. Moreover to others his name will be anathema because he makes an extensive use of casuistry in order to elucidate his principles. This dissertation is not concerned with the rights and wrongs of these methods, but is only concerned with making clear the author's methods, and incidentally showing that he avoids the pitfalls which often accompany the use of Canon Law and Casuistry in Moral Theology.

The elements which Sayrus unites together are found of course in the previous history of the subject, and the purpose of the following outline is to stress the origin of each, and by

1 Bouquillon. *Theologia Fundamental* p. 122 n. 1. 2 v. *infra* ch. IV.

a survey of Patristic writings and Penitentials, Scholastics and Summists, speculative theologians and casuists, to indicate the sources from which he drew, and the gradual assimilation of all these parts into one whole. In mentioning the different authors the criterion has been to select not only those whose names are more famous, but also those whom Sayrus more especially uses, so that this historical introduction may have a direct bearing on the dissertation as a whole. Although no strict division is really satisfactory, for the sake of clarity and convenience the chapter is divided into three sections :

Section I. The Patristic Period—up to the year 1200.

Section II. The Scholastic Period 1200-1564.

Section III. The Post-Tridentine Period 1564-1665.

### Section I.—The Patristic Period.

THE ethical works of the Fathers of the Church together form a very considerable course of Moral Theology, so voluminous and various that it is almost impossible to indicate them even in outline. Attempts have been made by printing selections from their works,<sup>1</sup> and a very complete summary is given by Bouquillon.<sup>2</sup> To pass over the innumerable letters and homilies necessarily containing moral teaching, the first systematic attempt at a Summary is the "Didache" or "Teaching of the Twelve Apostles," written about the end of the first century.<sup>3</sup> The "Pastor" of Hermas is a very similar document (circ. 140). At the end of the second century the writings of Clement of Alexandria are devoted almost exclusively to Moral Theology; "Paedagogus" and "Stromata" are strictly theological treatises not popular instructions. The Second Book of the "Stromata" for example contains a discussion on human acts and the difference between voluntary and involuntary.<sup>4</sup> Many moral discussions are found among the writings of the Apologists of the second century, especially Tertullian, St. Cyprian, St. Justin, and Minutius Felix.

The period between Nicea and Chalcedon may be regarded as the golden age of the Fathers. The Church enriched with the blood of the martyrs, and strengthened in unity of doctrine and discipline by the work of the great Councils, began to show a more vigorous intellectual activity.

1 e.g., *Veterum Patrum Theologia Universa*. Angelo Cigheri Vol. x-xiii Florence 1791.

2 *Theologia Moralis Fundamental*. Bruges 1903, §§ 125-152.

3 An analysis of its contents v. Slater "Moral Theology" II. p. 517.

4 *Stromata* II. c. 14. Gass *Geschichte der Christlichen Ethik* I. 76.



The moral doctrine especially is more profound and erudite, and moreover is presented in a logical and systematic order; the excellence of the theological virtues and the need of Prayer Fasting and Almsgiving, the duties of various states of life, and the moral obligation of observing laws human and divine, receive a more careful and exact treatment. Most of all, the progress and development of the monastic life gives rise to ascetic works, emphasising the positive side of perfection and moral progress rather than the mere negative aspect of avoiding sin. The first attempt to systematise the various virtues and vices in an appropriate order is the "De Officiis" of St. Ambrose written at the end of the fourth century for the instruction of the clergy of Milan. It is based on the "De Officiis" of Cicero and follows its pattern closely throughout, demonstrating the superiority of Christian ethics over those of the pagan. Cicero wrote for his son, St. Ambrose for his spiritual children. The philosophic difference between ordinary and perfect virtue has its counterpart in the Christian distinction between precept and counsel.<sup>1</sup>

St. Augustine (354-430) though chiefly engaged in dogmatic questions—"Doctor Gratiae"—has left considerable writings on moral questions and is rightly considered the father of scientific theology both dogmatic and moral. To pass over his Commentaries Homilies and letters of which 218 are extant, his treatises most worthy of mention are "De Bono Matrimonii," "De Virginitate," "De Mendacio," and "De Utilitate Jejunii." His favourite theme is always Divine Charity as the foundation of the spiritual life, love of God leading to contempt of self and love of self leading to contempt of God. In his most widely read work "De Civitate Dei" this doctrine finds perfect expression.<sup>2</sup> Among the Eastern Fathers St. John Chrysostom (344-407) has the widest influence. With the exception of the treatise "De Sacerdotio" his moral teaching is contained in letters and homilies and especially in the voluminous commentaries on Genesis, the Psalms, Isaiah, and practically the whole of the New Testament.<sup>3</sup>

To the period between Nicea and Chalcedon belongs also the appearance of another element, which must always be of prime importance in Moral Theology in its practical as distinct from its theoretical aspect, namely the Canons of Councils, and the decretal and synodal letters of Popes and Bishops. In the positive legislation of the Church is found the practical

<sup>1</sup> Slater op. cit. p. 522.

<sup>2</sup> Prummer Theologia Moralis Vol. I, section 10. Gass op. cit. I, 169.

<sup>3</sup> Gass I. 200.

application of the great principles of Christianity to the varying conditions and circumstances of human life. The Apostles used this legislative authority inherent in the constitution of the Church, and within twenty years of Christ's Ascension the Council of Jerusalem legislated on the disputed question of obedience to the Mosaic Law.<sup>1</sup> In exercising jurisdiction over the whole Church, the Roman Pontiffs have from the earliest ages enacted laws for the well-being of the Christian Community. In the first century, for example, the First Epistle of St. Clement to the Corinthians; in the second century St. Victor's decision about the observance of Easter; in the third century St. Stephen's decision about the baptism of heretics. By the fourth century the various laws of Popes and Councils began to be collected together, at first in chronological order, and then systematically.<sup>2</sup>

The practical need of these collections arose from the Sacrament of Penance, since it was necessary to have a clear notion of the various sins and their species, of their relative grievousness, and of the penance to be imposed as directed by ecclesiastical authority. They were intended therefore for the guidance of the Confessor and did for the Patristic Period what the Penitential Books did for the seventh century, the Summae for the Middle Ages, Casuistical books for the seventeenth century, and the Handbooks of Moral Theology for our own day. It is important to note their origin now, since in the course of their development through the centuries, they gradually assumed a character entirely foreign to their original purpose. They were canonical books containing collections of ecclesiastical law and therefore to be applied *in foro externo*, but gradually the juristic principles of the external forum came to be applied to the internal forum of conscience to the grave detriment of Moral Theology. There will be occasion to return again to this point in the course of the dissertation. It suffices here to note that these collections were of different authority, some of private origin like those of St. Gregory Thaumaturgus and St. Basil, others emanating from local Synods as that of Ancyra in 314, others from Oecumenical Councils. Several examples from the different collections are given by Zacharia in the "Dissertatio" which is prefixed to many editions of the Moral Theology of St. Alphonsus.<sup>3</sup>

A much more important beginning in this same period between Nicea and Chalcedon, and all trace of which has entirely disappeared from modern manuals of Moral Theology,

<sup>1</sup> Acts XV, 28.

<sup>2</sup> cf. Slater op. cit. p. 529.

<sup>3</sup> Zacharia. Dissertatio Part I, c. 2 §§1-5, c. 3 §1, §5.



is the scientific treatment of the development of the spiritual life. Christian asceticism, whose intimate relation to Christian Morals is seldom perceived by non-catholics, and completely misrepresented by Lecky in his "History of European Morals," existed of course from the dawn of Christianity. The earliest attempt to systematise the rules of the spiritual life is due to Cassian (circa 400); the "Institutions" and "Collations" represent the teaching of celebrated abbots on the spiritual life and contain speculative and practical doctrines which have been the foundation of all subsequent writings on the subject, and have been held in the highest repute for centuries.<sup>1</sup>

The two centuries following the period we have called the Golden Age of the Fathers, was less fruitful in theological science, owing to the many public and social calamities which afflicted the Church. But one great name stands out prominently—Gregory the Great (540-604). Two of his works remained as text books right on into the Middle Ages, "XLV Lib. Moraliū in Job" and "De Cura Pastoralī." The first is a very complete moral treatise in an allegorical form, Job being taken as a type of Christ and the Church.<sup>2</sup> The second is a handbook for the clergy, setting out the qualities required in those who have the care of souls, in regard both to themselves and those under their care. It has always been a favourite book in England from the time it was translated by King Alfred for the benefit of the Bishops and priests of his Kingdom.<sup>3</sup> In these days it is universally used in English speaking countries, being the basis of Bishop Hedley's "Lex Levitarum."

To the same period, namely the seventh century, belong the Penitential Books. These, like the collections of canons already mentioned, though written for a practical purpose are really a mark of decadence. In comparison with solid patristic learning they stand in exactly the same relation as the casuist handbooks in comparison with scholastic theology. They were meant as an assistance to the less learned clergy in the work of hearing confessions. Up to the seventh century the three capital crimes, apostasy, murder, adultery and their species, were subject to a definite canonical penance fixed by ecclesiastical authority. With the advent of the barbarians other heinous crimes were added, but the penance especially for secret sins was left to the confessor; there was thus a relaxation not in the infliction of penances but in their ecclesiastical control. The Penitential books were comprehensive lists drawn up for the guidance and uniformity of

1 Gass I, 130.

2 Ibid I, 185.

3 Slater op. cit. p. 525.

confessors in this matter, and large numbers of them appeared under various forms during the next four centuries. Some bearing the sanction of the Church followed the canonical decrees of Popes and Councils already referred to, others were of private authorship, and were subsequently condemned by the Church. They fell into disuse with the gradual cessation of public penance in the Church.<sup>1</sup> A full list is given by Zacharia. After the *Penitentiale Romanum* among the best known in the Western Church are those of Theodore of Canterbury and Rabanus Maurus (circa 856), and in the Eastern Church that of Joannes Jejunator (circa 582) which in different recensions remained in continual use for the next two centuries.

It is not possible to define mathematically the close of the patristic and the beginning of the scholastic age; many of the characteristics of scholasticism are evident in the works of the Fathers, especially the application of philosophy to the defence of theology, and the systematising of the schoolmen had some predecessors among the Fathers. Still, for practical purposes of demarcation, we may regard St. Bernard as the last of the Fathers (1091-1153), and take a glance at the chief characteristics of theological science up to his time. As a matter of fact there is very little fresh development to record from the VII. to the XI. century, the work of theologians being chiefly recensions and compilations of their predecessors. The writers are mainly monks and bishops and treat naturally of subjects pertaining to divine worship and the ruling of the Church. Theology began to be taught more and more in the monastic and episcopal schools, and is accommodated more and more to the needs of scholars.<sup>2</sup> Commentaries on the Scriptures Letters and Homilies are still produced (e.g. St. John Damascene 725), but they are of less importance and in no respect comparable to those of the great Fathers.<sup>3</sup> On the other hand there is a profusion of systematised theological writings having this in common, that they are composed of elements drawn from their predecessors. These are in the majority of cases entitled "*Libri Sententiarum*," that of S. Isidore of Spain being one of the earliest (d. 636).<sup>4</sup> Similar compilations were made by Hugo a S. Victore (1096-1141) and the most famous of all by Peter Lombard the "*Master of the Sentences*" (d. 1160).<sup>5</sup> Side by side with these compilations appear also separate treatises generally on the virtues and vices (e.g. Hincmar of Rheims 806-882), and a large

1 Bouquillon op. cit. §151, Gass I. 251.

2 Zacharia. *Dissertatio*. Part I c. 4. Gass I 264 (Rabanus Maurus).

3 Bouquillon op. cit. § 141. 4 Gass I. 216. 5 *ibid* 186 6 *ibid* 314.

number of works dealing with the duties of the clerical state.<sup>1</sup> The Penitential books whose origin we have already noted—one of the latest being ascribed to Petrus Pictaviensis (d. 1205)—continue to be used until supplanted by the *Summae* of the scholastic period.

## Section 2.—The Scholastic Period, 1200-1564.

The theological writings of the two previous centuries were chiefly compilations of older authorities ; points here and there were more fully developed and lacunae filled in, but there remained a large number of subjects which as yet had scarcely been touched e.g. human acts, conscience, laws, and matrimony. It was for the great scholastics of the XIII. century not only to supply a scientific study of points not treated by their predecessors, but to reduce to a perfect system the whole range of theology both dogmatic and moral, and so perfect indeed that at the present time our knowledge is in substance exactly as it was six hundred years ago. It was a golden age in every respect ; it saw the rise of Gothic Cathedrals in the chief cities of Europe ; it saw the acceptance of Aristotelian philosophy in the Universities of Paris and Bologna ; and it saw the application of this philosophy to the rearing of monumental works of theology, of which the "*Summa Theologica*" of St. Thomas is the summit and the crown.

The causes of this renovation, much more profound and widespread than the Renaissance of the XV. century, was due partly to the material progress and security enjoyed by the Church after its long struggle with the civil power, partly to the intellectual impetus arising from the unimpeded use of Aristotle in the schools, partly also to the need of defending revealed doctrine against the insidious attacks of the Arabian Philosophers. But most of all it was due to the erection and extension of Universities and Schools in the great cities, owing to the lamentable decline of the monastic orders both intellectually and morally. The great abbeys had formerly been the centres of intellectual activity, but by the XIII century they were so no longer ; the monks blamed the early scholastics for using the "profane" Aristotle, and some of them were even too tired to teach boys in their schools. The fact is witnessed by Abelard and by the monastic chroniclers themselves.<sup>2</sup>

Intimately connected with the monastic decline, and the spread of the Universities was the foundation of the

<sup>1</sup> *ibid* §148.

<sup>2</sup> Ziegelbauer. *Historia Rei Litterariae Ordinis S. Benedicti*. Vol I, c. 1, p. 63, cf Chapter III *infra*. Gass I, 303,



Dominican Order. The IV. Council of the Lateran 1215 had tried to remedy the chaotic state of ecclesiastical education by legislating for the support of a theologian in each Cathedral School, but the legislation remained a dead letter, until the need was met by the Order of St. Dominic whose scholarly and doctrinal character was evident from the very beginning. At the end of the XIII. century it had 500 scholars teaching theology in the various schools of Europe, and in the new Universities no faculties of theology were erected where a Dominican Convent existed.<sup>1</sup>

The chief characteristic of the work of the XIII. century theologians is the application of human reason and philosophy to elucidating revealed truth, thus effecting that union between faith and reason of which Leo XIII. speaks,<sup>2</sup> and without which there can be no theological science. Hence with a wider outlook and scope their volumes are ampler, embracing every conceivable point of view and answering every difficulty, Roger Bacon said that the *Summa* of Alexander of Hales weighed heavier than a horse. Yet in spite of their enormous bulk and the number of matters treated, the parts were so arranged in logical order as to form one whole. Throughout the whole period, that is practically up to the Council of Trent, the works of theologians of all schools were presented in the form of a Commentary on the Sentences of Peter Lomard. It is impossible to overestimate the importance of this text which, by a kind of unwritten law, was prescribed for every teacher of theology.<sup>3</sup> Very little is known about the author of this work, except that as a pupil of Abelard he wrote it to counteract the rationalising tendencies of his master. It is systematically arranged in four books, and each book is divided into Distinctions or special points, on which the traditional doctrine is set out by means of patristic extracts (*sententiae*). All the great scholastics wrote Commentaries on the Sentences, viz. Alexander of Hales (d. 1245) one of the earliest and most important, although at present there exists no critical edition; it was very largely used by S. Bonaventure (d. 1274); B. Albert the Great (d. 1280); Scotus (d. 1308); Petrus de Tarantasia (d. 1276).<sup>4</sup>

Having lectured for the prescribed time on the Sentences, the professor was free to choose any subject he pleased; hence a second great class of theological literature—the “*Quodlibetales*” and “*Quaestiones Disputatae*.” Finally there were the “*Summae Theologicae*” the fruit of ripe and mature study,

<sup>1</sup> cf Mandonnet. *La crise scolaire au debut du XIII siecle*. Louvain 1914

<sup>2</sup> Encyclical “*Aeterni Patris*.”

<sup>3</sup> Bouquillon op. cit. §159.

<sup>4</sup> *Gass* I, 314, 323.



intended not as a text for the professor's lectures but more for the private assistance of the student. In each of these forms of literature, St. Thomas Aquinas (d. 1274) achieved the greatest eminence, and his "Summa Theologica" by the end of the XVI. century had taken the place of the Sentences of Peter Lombard as the text for theologians to commentate upon. It cannot be insisted too strongly that St. Thomas is, or should be, the chief fountain not only of dogmatic but also of moral theology. His predecessors do not discuss moral problems except incidentally; it was for St. Thomas to undertake and complete the task of constructing Moral Theology as a speculative science. Moral questions form the chief element in the "Quodlibetales" and the "Questiones Disputatae: De Malo, De Virtutibus in communi, De Charitate, De Virtutibus Cardinalibus; but it is in the I-IIae and II-IIae of the "Summa" that he has left for us a mine of principles which must always be the basis of any solid treatment of moral problems.<sup>1</sup>

The XIV. and XV. centuries witnessed a decline in moral speculation, which became deformed into a mere tiresome subtlety and abuse of distinctions. The grand unity of the "Summae" of the great scholastics is no longer seen, but instead a variety of individual questions are treated in a practical rather than a speculative manner. We may mention the following: Durandus (d. 1334) Capreolus (d. 1444) Sylvester Prieras (d. 1523); and among the Scotists Petrus Aureolus (d. 1322) and Petrus Aquilanus (d. 1370) each of whom commentated on the Sentences. Throughout this period there were chairs of Scotist and Thomist philosophy and Theology in the chief Universities. Though their chief disputes were on dogmatic grounds, differences with regard to morals naturally followed. For the Thomists the Natural Law is necessary and immutable since morality is determined by the nature of things, for the Scotists it is changeable since morality depends on the free Will of God; the distinction between moral and venial sin is more fundamental for the Thomists than for the Scotists; also innumerable differences regarding the connection between habits and sanctifying grace, the infusion of the moral virtues, and the sacraments.<sup>2</sup>

A word must be said about the more elementary and practical writings of the scholastic period, intended for the guidance of the ordinary parish priest and confessor in the

1 Ibid I, 328. Manning "The works of St. Alphonsus are a summary of Moral Theology as the great work of St. Thomas is of dogmatic." The Mission of St. Alphonsus. Sermons II, p. 209. A common misconception. 2 Bouquillon, op. cit. §158.

exercise of his practical ministry. Of these summaries, which appeared in great number during the next four hundred years, the pattern and prototype is the "Summa de Poenitentia et Matrimonio" of St. Raymond of Pennaforte.<sup>1</sup> It stands in exactly the same relation to the subsequent practical manuals as the Sentences of Peter Lombard to the great subsequent works of speculative theology. Written about the year 1235, it represents in a systematised collection the abundant material of its predecessors; like the sentences also, it is divided into four parts, the first treating of man's duty towards God, the second of sins against one's neighbour, the third of ecclesiastical law, irregularities, dispensations, etc., and the fourth of marriage; each part is divided into titles dealing with a particular subject and doubts arising from it. Its author was held in great esteem by the reigning Pope Gregory IX., especially in regard to Canon Law, and his work quickly attained a great popularity,<sup>2</sup> and went through many editions right up to the beginning of the seventeenth century. Like the Sentences it became a classical text on which many subsequent authors commented, notably Gulielmus Rehdonensis (d. 1251) and Joannes de Friburgo (d. 1314).<sup>3</sup>

A large number of similar works appeared during the next three hundred years and were widely used in the practice of the Confessional; the fact is witnessed by the large number of editions through which they passed. The best known are "Summa Pisana," a recension of the work of Joannes de Friburgo by Bartholomeus de Pisa (1347); "Summa Astensis" the work of an unknown Franciscan of Asti in North Italy (1317); "Summa Angelica" by Angelus de Clavasio (1520) passed through thirty-one editions; "Summa Sylvestrina" by Sylvester Prierias (1523) had more than forty editions.

Of the widespread influence of these "Summae" there can be no doubt, and they must have been used by thousands of priests who had never seen or heard of the works of the great speculative scholastics. Moreover, from these "Summae" the less learned members of the clergy drew their working knowledge of the Canon Law. At the time Peter Lombard was writing the "Sentences" Gratian was compiling the "Decretum"; at the time the great "Summae Theologicae" were being written the "Decretals" of Gregory IX. were also appearing. The XIII. century was the golden age of Canon Law as well as of Theology. But the speculative theologian and the jurist kept each to his own channel in the higher

1 Dictionnaire de Theologie Catholique. Vacant. art. "Casuistique."

2 Quetif and Echard. Scriptores O.P. I. 106.

3 Hurter. Nomenclator. Vol. IV. (1880) col. 285 seq.

branches of their respective studies. The theologian of Paris ignored the Jurist of Bologna and vice versa; yet the confessor had of necessity to be sufficiently versed in both subjects. The theologian, well versed in the principles of his speculative science and knowing little or nothing of the Canons, would be at a loss to deal with a complicated matrimonial case, so that Alvarus Pelagius could write in 1340 "*Recurrat ergo quilibet pro casibus ad jurisperitos non ad religiosos cum isti communiter ignorant canones.*"<sup>1</sup> The ideal would be for every confessor to be a doctor or rather "*doctus*" both in Theology and in Canon Law.

It was to meet the need of the less learned cleric that the "*Summae*," were written, namely to supply him with sufficient knowledge both of the principles of Theology and of Canon Law, to enable him to hear confessions and exercise his ministry with profit. But the unfortunate result was that Moral Theology came to be treated in a juridical manner and this tendency increased as the years went by, so that the "*Summae*" of the scholastic period have this in common with the majority of modern manuals of Moral Theology, that they approach the subject from the point of view of positive ecclesiastical law rather than from the principles inherent in Moral Science.

One other class of theological literature must be mentioned before leaving the scholastic age. It may be described as a grade lower than speculative commentaries on the Sentences, and a grade higher than the "*Summae*" which chiefly followed an alphabetical order cataloguing a list of sins. The "*Summa Theologiae Moralis*" of St. Antoninus of Florence (d. 1459) is the most famous example, and his authority has always been very great among moral theologians. His work is divided into four parts; the first part dealing with sins and laws in general, the second with sins in specie, the third with the various states of life, Sacraments and censures, and the fourth with the virtues.<sup>2</sup> Cardinal Gasquet has drawn attention to a similar though less extensive work by an English writer, John de Burgos, Chancellor of Cambridge (d. 1386), entitled "*Pupilla Oculi*" which deals separately with the Sacraments and the Decalogue.<sup>3</sup>

### Section 3.—1560-1665.

We take this period as stretching from the Council of Trent (1545-1563) to the first set of propositions in moral

<sup>1</sup> De Planctu Ecclesiae Lib XI. c. 20 apud Zacharia: Dissertatio Part II. appendix.

<sup>2</sup> Hurter Nomenclator ed. 1899 IV. col. 707. Gass I. 375.

<sup>3</sup> F. A. Gasquet, The old English Bible and other essays. London 1897



doctrine condemned by Alexander VII. (September 24, 1665). We must, however, be on our guard against the common Protestant error of confusing Probabilism and all its tiresome ramifications with Moral Theology in general, as if the controversies which it evoked gave a new life and impetus to the whole moral science. It is only concerned with the solution of points which are doubtful, and there is consequently an immense sphere of development to consider where neither Probabilism nor any other system enters in. The disputes arising out of its introduction are undoubtedly of prime importance, and we shall have to return to the subject in order to determine the position of Sayrus in its regard,<sup>1</sup> but for the present we shall not consider it.

The Council of Trent brought a new life and a new impetus into every sphere of the Church's work, and is chiefly responsible for the great development to be noticed in the study of Moral Theology, especially during the period from 1560-1630, which in its freshness and variety may be compared to the golden age of scholastics in the XIII. century. Intimately connected with it was the renovation of the old monastic orders to a new strength and virility, and the foundation of new orders—especially the Society of Jesus. Then the invention of printing in the previous century had the obvious effect of spreading knowledge widecast, of giving fresh vigour to the old Universities, and facilitating the erection of new ones, as that of Douay in 1559. The spread of the Lutheran heresy added a fresh spur to theological research especially in the prosperous Catholic countries of France and Spain, and the necessity of defending Catholic doctrine against the attacks to which it was subjected, had the effect of sending theologians back to the fountain heads of Scripture and tradition. The endless distinctions and abstract dialectic which marked the decline of the scholastic age gave place to a more simple, positive and direct method in the presentation of theological treatises.<sup>2</sup>

As in the previous period, we can distinguish two sets of writings in Moral Theology, namely scientific commentaries and popular manuals. With regard to the former, the first thing to notice is that the text of the "*Summa Theologica*" of St. Thomas began to take the place of the *Sentences* of Peter Lombard as the basis of theological lectures and commentaries. Even as early as the XIII. century Roger Bacon deplored the widespread use of the *Sentences*, "*quantum peccatum (sc. studii theologici suo tempore) est quod per Franciam una summa magistralis textus facultatis theologiae*

1 *Infra* Part II.

2 Bouquillon § 171 *op. cit.*



sit LIBER SENTENTIARIUM: nam ibi est tota gloria theologorum: et postquam illum legit quilibet, jam presumit se de magistro theologiae."<sup>1</sup> His judgment is of no great importance compared with the universal practice of commenting on the Sentences which held for three centuries. By the sixteenth century there were still theological writers commenting on the Sentences, e.g., Ledesma (1574), and Antonius Cordubensis (1578),<sup>2</sup> but the greater works are now in the form of commentaries on the Summa of St. Thomas.

Besides these writings of a speculative character, this period is notable for the works of a positive and polemical nature, occasioned by the need of combating the Lutheran heresy, and many parts of these have also a direct bearing on Moral Theology. Card. Bellarmine must always hold the first place (1542-1621) among them all, and amongst English writers Cardinal Allen (1594) deserves to be remembered, not only for his strenuous efforts to ensure the continuity of Catholic priests in the country, but also for his many theological writings.<sup>3</sup> Likewise B. John Fisher, Bishop of Rochester (1535), Robert Parsons, S.J. (1610), and most of all Thomas Stapleton (1598).<sup>4</sup>

The widespread use of casuistry gives a special character to moral theology in the Tridentine period. The great speculative moral theologians professed, and still profess, a supreme contempt for casuistry, good, bad or indifferent; entrenched behind principles based on pure reason they decline to be drawn into a discussion of their application in any individual problem, "*hoc relinquamus auctoribus casuum*" "*haec nihil ad nos sed ad casuistas.*" The relation of casuistry to moral theology will have to be treated separately for Sayrus employed the casuistical method.<sup>5</sup> The cause of its introduction at this time was the large increase in the number of confessions. The Confessor was approached more and more on questions of conscience, and the need of uniformity made it desirable to discuss individual cases more in detail; a further cause was the introduction of the reflex principles of Probabilism in solving doubts, a system first clearly enunciated by Barth. Medina (1577). The casuistical method has always been the gibe of Protestants in criticising Catholic Doctrine, but they should remember that it was cultivated

1 Apud Bouquillon. n. 3, § 159, op. cit.

2 Hurter. Nomenclator 1892, Vol. I. col. 1.

3 De Sacramentis, De Indulgentiis, De Imaginibus. Hurter Nomenclator Vol. I. (1892) p. 57.

4 Hurter I. p. 176 and 58. Of Stapleton Bouquillon writes "*est omnium controversiarum eruditione doctrina vi et acumine forte primus, certo nulli secundus*" Theol. Moral. Fundam. § 174, n. 15.

5 Infra Chapter XI.

excessively by Protestant theologians also at this period, who lacking dogmatic principles and restraint of ecclesiastical authority, easily ran into the wildest puritanical excesses, e.g., William Amesius (1623), Balduin (1621), and in England, William Perkins, a Cambridge professor, (1624) and Bishop Hall of Norwich (1650).<sup>1</sup>

There remains a further class of writings to consider during this period, the class to which Sayrus' works belong, namely treatises on the whole field of Moral Theology or parts of it, which are neither ex professo speculative commentaries on the Summa, nor chiefly casuistical books, but hold a place midway between the two. To draw a rough parallel with the writings of the preceding period of scholasticism they correspond in scope to the "Summa Theologiae Moralis" of St. Antoninus, which may be placed midway between the "Summistae" and the great Commentators on the Sentences. Of this type are the "Institutiones Morales" of Azor (1603), "Theologiae Moralis Summa" of Henriquez (1608), "De Matrimonio" T. Sanchez (1610), "Opus Morale" Castropalao (1633), "Illustriores Disquisitiones Morales" Vincent Candidus (1654), and among the works of Sayrus the "Clavis Regia" and "De Sacramentis."

The following chapter deals with the same subject in the more limited sphere of the Benedictine Order to which Sayrus belonged, for the traditions and environment of a Religious Order have a marked effect on a writer's work. Moreover, the Order was not influenced by the Scholastic Revival, and remained, to a large extent, a world apart. Sayrus is the chief representative of Moral Theology among them in the Monastic Reform of the XVI. century. The chapter will therefore be divided into two sections:—

Section 1. Up to the Reform of the XVI. century.

Section 2. The Reform of the XVI. century.

<sup>1</sup> Döllinger Reusch. Geschichte der Moralstreitigkeiten Vol. I. pp. 25—28. Dublanchy Dict. Theol. Cath. art. "Casuistique," Gass II. 137, 147.

<sup>2</sup> Hurter I. 232, 233, 63, 504.

## CHAPTER III.

### MORAL THEOLOGY IN THE BENEDICTINE ORDER.

Section 1. The period previous to the Reform of the XVI. century. Monastic lassitude during the Scholastic period.

Section 2. The Intellectual Revival of the XVI century. Previous attempts at Reform. The Congregations. Cortese. The Cassinese. Graffius.

#### Section I.—The period previous to the Reform of the XVI. Century.

THAT the great family of St. Benedict, prolific in every form of learned activity, has contributed its share to the development of Moral Science goes without saying. Some notable Benedictine names during what we have described as the Patristic Period have already been mentioned, especially the wide-spread influence of Gregory the Great (540-604), and the Penitential Books of Theodore of Canterbury and Rabanus Maurus (c. 856). The pastoral and missionary work of the monks kept always to the front the need of practical theology and the necessity of Moral study was frequently urged by the early Synods.<sup>1</sup> At the dawn of the Scholastic Period stands the great figure of St. Anselm of Canterbury who is usually regarded as its parent (d. 1109), and though the more important and best known among his writings are of a dogmatic character, he also made considerable contributions to Moral Science. A scholastic in the sense that he brought philosophy to bear on the explanation of revealed truth, he made no attempt at uniting the whole of theology in one great body or Summa, the method which characterised his scholastic successors, but his work is scattered in various treatises each complete in itself. Among these are works on the Sacraments and special treatises on the Eucharist and Matrimony, composed in controversy with Walranus, besides a considerable number of homilies and letters.<sup>2</sup>

The XIII. century which saw such an enormous development in Scholastic Theology among the Mendicant Friars, has unfortunately nothing corresponding in the great Monastic Orders. On the contrary it was a period of intellectual decline which continued in some parts to the middle of the XVI. century. In speaking of the Benedictines, especially before the rise of the Congregations, it is not generally possible

1 Ziegelbauer II. cap. i. §4, p. 167. Names of famous Confessors and directors p. 162.

2 Hurter Nomenclator II. col. 5. Bouquillon op. cit. § 144, 150.



to fasten any characteristic on the whole Order owing to the autonomous nature of each Abbey or group. There were undoubtedly all through this time bright spots to relieve the general depression, but it is admitted that in the XIII. and XIV. centuries learning was generally at a low ebb in the Benedictine Order.

The aloofness, if not antagonism with regard to the new Universities, cut off the Abbeys from the great centres of learning; in many cases they were unable to educate their own younger subjects and they lamented the fact of being compelled to send them to outsiders.<sup>1</sup> In some cases the situation was met by the establishment of a Benedictine College at a University, and one of the earliest of these is Gloucester College founded by the English Benedictines at Oxford in the XIII century.<sup>2</sup> Ziegelbauer considers that the fault lay with the monastic superiors in being satisfied with a standard of learning, in the Studium Generale of the Order, much inferior to that of the Universities, and he gives several examples of express directions ordering the young monks to attend the Studium Generale, and forbidding them to frequent the Universities.<sup>3</sup> No doubt fear of worldly contamination was to a large extent responsible for the prohibition "in monasteriis oportet esse viros doctos non doctores, licentiatos aut baccalaureatos, presertim cum scholasticus gradus (Magistri et Doctoris) non scientiam sed superbiam saepius probetur augere."<sup>4</sup>

But the fact remains that *virī docti* did not abound, and when the invention of printing made the copying of manuscripts unnecessary, the monks lost their reputation even for this mechanical form of intellectual activity, and gradually came to regard learning as foreign to the monastic spirit. As late as 1555 there is a letter of John B. Folengo (d. 1559), a scriptural exegete, seriously answering the query "liceretne monacho litteris operam dare?" The question arose from a famous vision of a monk to whom St. Benedict was supposed to have appeared, and to have reproached his sons for wasting their time in pursuit of learning. It was at the time when the literary revival was taking place in the Cassinese Congregation, and Folengo's answer is that St. Benedict was referring not to sacred science but to profane learning.<sup>2</sup> In the German monasteries especially was the indifference to learning most apparent from numerous examples adduced by their own chroniclers. Even at the beginning of the XVI. century capability in Music was the chief recommendation for a

1 Ziegelbauer l. c. i p. 73.

2 Ibid, p. 67.

3 Ibid, p. 81.

4 Ibid, p. 87, text of the letter.



monastic vocation, and manuscripts were destroyed for the sake of the parchment. Theodericus Brickman, the Abbot of St. Michael of Hildesheim, caused amusement at the Council of Basle by being innocent of all knowledge of the Latin tongue.<sup>1</sup>

In spite of this general depression there are occasional examples during the XIV. century of Benedictine professors at the Universities, as Guy de Munois at Orleans, and Erasmus of Monte Cassino at Naples,<sup>2</sup> but generally speaking the connection between Benedictines and the great Scholastics begins and ends with the fact that St. Thomas Aquinas was for a certain period at school in Monte Cassino "*Hic nutritus in sua peritia in Abbatia Montis Cassini, qui sunt monachi nigri, et secundum morem nobilissimi illius patriae . . . ibidem in sua pueritia in logicalibus et naturalibus optime fecit.*"<sup>3</sup> They passed through the great scholastic period unruffled by the contest between Thomists and Scotists, and at a later date Cardinal Aguirre, who made a decided attempt to revive the doctrines of St. Anselm, could say with truth "*Monachi Benedictini nullo foedere, sacramento aut legi constricti sunt ad certam aliquam ex Thomistarum Scotistarum aut resentiorum scholis aut opinionibus.*"<sup>4</sup> They professed a supreme contempt for the profane Aristotle of the scholastics, so that at the Council at Trent an animated discussion could take place between Dominic Soto, O.P., and a Cassinese Abbot who urged the study of theology "*omissis scholasticorum cavillationibus.*" Ziegelbauer is rather annoyed with Soto over this matter,<sup>5</sup> since his confrère was merely referring to the useless distinctions and arguments which certainly characterised the writings of the later scholastics. It is not surprising therefore, considering the condition of monastic learning, that during the XIII. and XIV. centuries there is not one author who has contributed even a small amount to the literature of Moral Theology.

In the XV. century Ziegelbauer mentions John de Spira and John de Campidona (1450) as authors of manuals for confessors<sup>7</sup>; Andreas de Escobar (1437) also compiled a

1 Ziegelbauer I. c. i. pp. 79, 93, 94. Misunderstanding the prompting of his Secretary he recorded his vote "*ego sto cum hic.*"

2 Dictionnaire Theol. Vacant II. p. 602 art. Bénédictins (travaux de).

3 Account of his confessor Ziegelbauer I. c. ii. § 1, p. 196. Gattola Hist. Abbat. Cassin. saec. viii. § 5 says he was a monk at Cassino.

4 Aguirre Comment. in Theol. S. Anselmi I. disp. i. § 9 (Ziegelbauer II. c. i. § 2).

5 May 20, 1546, Palavicini VII. c. 5 (Ziegelbauer II. c. i. § 1, p. 94).

6 Bouquillon op. cit. § 171.

7 Ziegelbauer II. cap. i. § 4, p. 181; IV. cap. i. § 5, p. 134.

"methodus confitendi,"<sup>1</sup> but these authors are not mentioned by Hurter; Trithemius, Abbot of Spanheim (d. 1516) is claimed by both the sources just mentioned, but though he is a learned and voluminous author I cannot find anything bearing directly on Moral Theology in the titles of his works. But one name should be mentioned at the close of the period we are considering, John Raulin (d. 1515). Famed chiefly as a preacher, most of his writings have been published and contain a great deal of matter dealing with moral problems, e.g., "*Itinerarium Paradisi*" concerned with the Sacrament of Penance.<sup>2</sup>

This short account of the state of Moral Theology among the Benedictines in the scholastic period, although almost entirely of a negative character, has been given in order to bring into stronger relief the revival of learning during the XVI. century, especially in the Cassinese Congregation, for in the province of Moral Theology Sayrus occupies the chief place in that new intellectual life, and is one of the first, if not the first, among the monks of St. Benedict to make any serious contribution to the study of the subject.

## Section 2.—The Intellectual Revival of the XVI. Century.

In the period we have just considered more or less abortive attempts had been made to reform the intellectual lassitude into which the monastic state had fallen; the decrees for example, of the Council of Vienna in 1311, and the Constitution of Benedict XII. (1334-1342) which was renewed in a fresh attempt to reform at the beginning of the following century.<sup>3</sup> But it is a characteristic of the Order of St. Benedict, that its reforms have always been effected from within, and one of the most potent causes of the revigoration so apparent in the XVI. century, was the previous formation of Congregations or Unions by which the monastic units were brought together for their mutual assistance and development. Thus in 1417 the Bursfeld Union, and in 1421 in Italy the Congregation of St. Justin of Padua, which since 1504, when Monte Cassino joined it, is generally known as the Cassinese Congregation. It subsequently embraced two hundred houses in Italy, united under a centralised form of government, by which the autonomy of individual units was almost destroyed. Many lament the fact as being a departure from Benedictine tradition, but it had an immediate and most beneficial result, for the Cassinese Congregation attained to an intellectual eminence long before the other monastic bodies in Europe.

1 Dict. Theol. Vacant II, p. 602.

2 Hurter II, col. 1188.

3 Ziegelbauer I. c. vi. p. 72.

Two great names must always be connected with this revival, not only in Italy, but also in other parts of the Church, Gregory Cortese (d. 1548) and Isidore Clarius (1555). Cortese, afterwards Cardinal and Apostolic Visitor in Italy, spent his life in effecting revival and reform, and was largely responsible for preparing the work of the Council of Trent. As abbot of St. George's Monastery in Venice (where Sayrus afterwards taught) he made it a reputed centre of learning, and inspired the Cassinese Congregation with his own intellectual spirit<sup>1</sup>. Isidore Clarius (or Chiari) was associated with Cortese in his work of reform.<sup>2</sup> In Germany Trithemius (d. 1516) did much by his influence in re-awakening theological learning,<sup>3</sup> but it remained a long way behind the Cassinese, and it was not until the foundation of the University of Salzburg at the beginning of the XVII. century that German Monasticism took its proper place in the world of learning. In the latter half of the century it produced a number of works on Moral Theology: Charles Jacobs (d. 1661) "*De Justitia et Jure*," Christopher Rassler (d. 1675) "*De Sacramentis*," Heinlin (d. 1680) "*Medulla Theologiae Moralis*." All these authors are sufficiently obscure, and we have to wait till 1718 for a theological work of outstanding importance: "*Cursus Theologiae Moralis Salisburgensis*" by Babenstüber (d. 1726).<sup>4</sup>

Among the Cassinese however, the revival of theological learning became apparent early in the XVI. century. The description of the studies at Monte Cassino, supplied by Benedict Bacchinus to the enquiries of Cardinal Cortese, shows that the younger monks went through a thorough theological training,<sup>5</sup> and the statutes of the Cassinese Congregation are similar evidence of the fact.<sup>6</sup> Moreover, in the department of scriptural and patristic studies they were doing work of lasting importance. In the dedicatory letter addressed by the President of the Congregation to the Pope, affixed to the expurgated Commentary of John Baptist de Folengo on the Psalms (Rome 1585), an account is given of the Cassinese editions of the Fathers and Biblical texts, and it also mentions that Gregory XIII. had confided to them the revision of the New Testament text.<sup>7</sup> The Spanish Benedictine, Ant. Perez (d. 1637), had achieved a similar eminence as a scriptural exegete.<sup>8</sup> But during this early period of revival there is not found the same degree of erudition in theological science, especially in

1 Hurter Nomenclator II. 1499; Ziegelbauer I. p. 106.

2 Hurter II. 1479. 3 Ibid

4 Hurter Nomenclator IV. 1007; Dict. Cath. (Vacant) art. cit. Re. Univ. of Salzburg foundation cf. Ziegelbauer I. c. 1 p. 119.

5 Ziegelbauer I. c. i, p. 103. 6 Ibid. p. 104. 7 Armellini II. 26.

8 Hurter Nomenclator III. 775.



Moral Theology, with which we are concerned. Ziegelbauer mentions two names, Thomas ab Ebulo and Theophilus Senensis, but their contributions were not of great importance, and they are not mentioned by Hurter at all.

With the impetus of reform inaugurated by Cortes, and under the rule of a succession of learned abbots, as Desiderius a Fractis and Severinus a Castello Forto,<sup>1</sup> Cassino was producing scholars in the various branches of sacred learning, but in Moral Theology there was no one of eminent ability until the arrival of Sayrus in 1588. It is evident from the singular fact that he was appointed the Professor of Moral Theology almost immediately after his profession,<sup>2</sup> and continued in the work till his death. The only other contemporary with whom he can compare is Jacobus Graffius (d. 1620), who though a monk, occupied the unusual position of Canon Penitentiary of Naples, and had charge of the theological studies of the Cassinese Congregation.<sup>3</sup> His work "*Decisiones aureae casuum Conscientiae*," appeared first in 1591 and others followed—chiefly of a canonical nature.<sup>4</sup> After Sayrus and Graffius there is a gap of some years without any very illustrious name to record. Ziegelbauer mentions Bernard Hontiverus (1653) and Carolus de Baccis (1667), but neither of these had any great influence.<sup>5</sup>

Later on in the XVII. century there were a few small works produced by the Probabilist controversies, but though Benedictine scholars excelled in patristic lore and contributed a fair amount to dogmatic and polemical theology, there are no eminent names after Sayrus and Graffius until the Salisburgenses already referred to,<sup>6</sup> and Augustine Reding, Abbot of Einseideln (d. 1692).<sup>7</sup>

We can now, in the following chapter, determine the historical position which the works of Sayrus occupy in relation to his contemporaries, and those who immediately preceded and succeeded him.

1 Ziegelbauer I. 198.

2 Athanae Cantabridgienses II. p. 334.

3 Armellini II. p. 4.

4 Hurter Nomenclator III. 600.

5 Ziegelbauer II. c. i §4; IV. c. i. §5, They are not mentioned by Hurter.

6 Fr. Berliere O.S.B. informs me of the existence of a M.S. "*Cursus Theol. Moralis*" Placentiae 1688. 12 vols. by D. Honoratus Marliani (Cassinese).

7 Hurter IV. 332.



## CHAPTER IV.

### THE POSITION OF SAYRUS IN MORAL THEOLOGY.

Section 1. English Theologians of the period. The Douay Scholars and Apologists. Hall. Pitts. Terillus.

Section 2. The chief Moral Theologians of the period. Graffius, O.S.B.

(a) Predecessors. Ledesma, Medina, Angles, Palaicos, Mercados, Lopez, Corduba, Aragona, Molina, Toletus, Sa, Navarrus.

(b) Contemporaries. Bannez, Suarez, Vasquez, Ledesma, Valentia, Henriquez, Salon, Rodriguez, Azor.

(c) Successors. Ledesma, Alvarez, de la Torre, Comitulus, Lessius, Reginaldus, Filiucci, Salas, Rebellus, Bonacina, Sanchez.

Section 3. The works of Sayrus: *Clavis Regia*. *Thesaurus Casuum*. *De Sacramentis in Communi*, *Decisiones Casuum*. *Summa Penitentiae*.

IT is not always easy to determine exactly an author's date or "floruit," especially, when as in Sayrus' case, most of the works have been published posthumously. Some writers follow the custom of giving the author's death as an indication, and for general purposes this is the only practical method, but when a writer has lived to an extreme old age, the date of his death does not coincide with the summit of his influence—a theologian like Navarrus for example is not at his best at the age of ninety-three. Sayrus, on the other hand, died comparatively young, and his chief work, "*Clavis Regia*," was not published until three years after his death. Bearing this in mind, in defining his position relative to other theologians from the point of view of time, the dates given after an author's name in this section are those between his first printed work and his death. Sayrus' literary date therefore is 1599-1602.

#### Section 1.—English Theologians of the Period.

England during Sayrus' time was more prolific in martyrs and confessors than in great writers, and even up to our own day the urgent and pressing needs of the Mission has prevented many who have the ability and the inclination from devoting their time to literary work. During the persecution times Catholic works could not of course be printed in the country, and most of their authors lived out of England, in Douay or one of the Colleges abroad.

Among the immediate predecessors of Sayrus two names stand out eminently above the rest, Thomas Stapleton (1579-1598) and Gregory Martin (1578-1582).<sup>1</sup> Religious controversy naturally took the first place in those days and Thomas Stapleton easily holds the first place among English theologians who

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<sup>1</sup> Hurter Nomenclator. III. 278.

were engaged in polemic; he is regarded indeed with Bellarmine as one of the great Apologists of the Church.<sup>1</sup> With him are associated William Allen (1564-1594), Richard Bristow (1574-1581), Nicholas Saunders (1565-1581) and Blessed Edmund Campion (1580-1581).<sup>2</sup> None of these authors treat directly of Moral Theology, though of course many points bearing on the subject are dealt with in a controversial manner especially in the works of Allen and Stapleton. Richard Hall (1598-1604) has a work on Probabilism "*De Quinquepartita Consentientia*,"<sup>3</sup> and John Pitts (1592-1619) chiefly known for his biographical accounts of English writers, also published treatises "*De Legibus*" and "*De Beatitudine*."<sup>4</sup> Robert Parsons, S.J. (1582-1616) a noted controversialist is similarly a contemporary of Sayrus.

Following immediately on Sayrus are Leander a S. Martino—or John Jones, D.D.—(1617-1629), a scholar chiefly in Holy Scripture, who edited the complete edition of Sayrus in four volumes at Douay 1620, and Thomas Preston (1613-1620) a controversialist. There were several other apologists of minor importance, but fifty years passed by before our islands produced a theologian in any way approaching the calibre of Sayrus, namely Terillus. John Sinnich (d. 1666), an Irishman and doctor of Louvain, has attained celebrity and his name is included in every manual, solely through being the author of the third proposition condemned by Alexander VIII, which was contained in a book published after his death, "*Non licet sequi opinionem vel inter probabiles probabilissimam*."<sup>5</sup> Terillus, S.J. (1668-1676) is widely known as an energetic defender of Probabilism. Fr. Slater, S.J., considers him one of its leading lights, but Concina throughout his learned history of Probabilism is at immense pains to tear him to shreds at every opportunity. Though of prime importance in the Probabilist controversy, the two works which he produced, "*Fundamentum totius Theologiae Moralis*" and "*Regula Morum*" are only of importance in this limited respect, and the remaining vast field of Moral Theology is untouched by him.<sup>6</sup>

For the next two hundred years till P. Kenrick published among other theological works, a Moral Theology in two volumes (1858),<sup>7</sup> one may look in vain for any contribution to

1 Hurter III, 81 "*qui luminaribus illis magnis Bellarmino et Duperonio non impar, a nonnemine illis prefertur.*"

2 Hurter Nomenclator III, 165-178.

3 Athenae Cantab. II, 368. Slater Moral Theol. II, p 551.

4 Foley Records III, 646, VI, 149. 5 D.N.B. LII, 316. Denz. 1293.

6 Ibid, III, p 410, 420. D.N.B. V, 364. Hurter IV, 284.

7 Hurter Nomenclator V, 1152.

the subject among English speaking races beyond the merest trifles, as for example the "Enchiridion Confessariorum" of John Towson, O.S.B. (1718).<sup>1</sup>

English Catholicism, harassed and repressed by the remnants of the penal laws, was if anything in a worse intellectual condition than during the times of vigorous persecution. In the radius, therefore, of his own nation, Sayrus easily holds the first place as an exponent of Moral Theology. In the intellectual revival following on the Council of Trent, which among the other branches of Theology, produced practical moralists from every nation: Ledesma, Vasquez, Amicus Lessius, Sanchez, etc., he is the only Englishman who can with any justice be placed in the same category. Among English theologians of his time he stands in the same line with Thomas Stapleton, Gregory Martin, William Allen and Leander.

## Section 2.—The Chief Moral Theologians of the Period.

If we turn to the equally restricted sphere of his own Order, his contemporary, Graffius, is the only other author with whom it is possible to make a comparison. Which of the two should be put first in date is not quite clear. The best known work of Graffius, "*Decisiones aureae casuum conscientiae*," was first published in 1591, that is to say, nearly ten years before any printed work of Sayrus; but unlike our author he lived to a respectable age and his other writings continued to appear twenty years after Sayrus' death. Certainly, Ziegelbauer in estimating the value of the two, treats Graffius second from the point of view of time.<sup>2</sup>

To determine his position among the Moral Theologians of other Orders and nations, in an age which was singularly fruitful in theological writers is somewhat more difficult. For we have to bear in mind that though he cannot properly be reckoned among the exclusively scholastic and speculative writers, it would be equally incorrect to regard him as a mere casuist. His purpose was certainly to write something that would be of practical use to the clergy in their daily ministerial work, but the result is not a mere catalogue of sins. For the solution of all the practical cases he adduces is made to rest on theological and scholastic principles, which are drawn from St. Thomas and his chief commentators, and these always hold the first place among the authorities he quotes. Accordingly in the following list of authors, immediately preceding, contemporary, and succeeding Sayrus, the more important names will be mentioned both among the scholastics and among the

<sup>1</sup> Dict. Cath. Vacant art. Bénédictins (Travaux de) II, p 602.

<sup>2</sup> Ziegelbauer, II cap. i, §4 p. 183.



casuists. They have been drawn chiefly from the *Nomenclator Literarius* of Hurter, and in selecting the more noteworthy among the innumerable writers mentioned, the list prefixed to the *Moral Theology* of Fr. D. Prümmer has been found of the greatest use. Also the authors actually used and quoted by Sayrus have been taken into account, for with the exception of one or two contemporaries, there is no writer of note whom he has not used.

#### (A) IMMEDIATE PREDECESSORS.

Martin D. Ledesma, O.P. (1555-1574) has left *Commentaries* on the Sentences. He must be distinguished from two other Spaniards of the Dominican Order, Bartholomew de Ledesma (1598-1604) the author of several practical works frequently used by Sayrus, and Peter de Ledesma (1596-1616) whom he does not use at all.<sup>1</sup>

Bartholomew de Medina, O.P. (1577-1581) the reputed parent of Probabilism whose principles he first clearly enunciated in *Commentaries* on I-IIae of St. Thomas.<sup>2</sup> In common with most theologians of the time Sayrus adopts the principles of Medina in this matter, but in an extremely guarded and modified sense, attempting to harmonise them with the older teaching of Navarrus.

Joseph Angles, O.Min. (1584-1587) wrote "*Flores theologiarum*," *Commentaries* on the Sentences, and a few smaller works. Hurter places him in the list of scholastic as distinct from practical writers, but like Sayrus, who uses him frequently, his work is of a mixed character.<sup>3</sup>

Michael de Palacios (1574-1593) a canon of Granada, besides numerous works of Scriptural exegesis, commented also on the Sentences.<sup>4</sup>

Thomas Mercado, O.P. (1569-1575), wrote several moral treatises in Spanish which were afterwards translated and became widely used. He is not quoted by Sayrus.<sup>5</sup>

Ludovicus Lopez, O.P. (1585-1595). The two works "*Instructorium Conscientiae*" and "*De Contractibus*" contain a number of cases, and in solving these he is generally inclined to be lax.<sup>6</sup>

Antonius Corduba, O.Min. (1569-1578), had a considerable reputation as a moralist during his lifetime and is continually used by Sayrus. Besides a commentary on the Sentences, and some polemical works, he wrote a book of Casuistry "*Quaestionarium Theologicum*."<sup>7</sup>

Peter Aragona (1584-1595) commented on II-IIae of St. Thomas elucidating the theological virtues and justice. He occupied the Scotist chair at Salamanca.<sup>1</sup>

1 Hurter Vol. III. p. 1.

2 Ibid III. 144.

3 Ibid III. 141.

4 Ibid p. 143.

5 Ibid p. 132.

6 Ibid p. 353

7 Ibid p. 2.



Ludovicus Molina, S.J. (1593-1600) celebrated, or notorious, chiefly for his doctrines on Grace in a commentary on Ia Pars. of St. Thomas, wrote also a treatise "De Justitia et Jure," considered one of the important works on the subject and often reprinted.<sup>2</sup>

Francis Toletus S.J. (1561-1596) the first Jesuit Cardinal. A renowned Scriptural exegete, he wrote also several practical moral works highly commended by St. Francis de Sales, among which the best known is the "Summa Casuum Conscientiae." A large number of his unpublished works were not edited till 1869.<sup>3</sup>

Emmanuel Sa, S.J. (1595-1596). A scriptural exegete he also, like Toletus, wrote on Moral Theology "Aphorismi Confessoriorum" placed on the index 1603 as favouring "confessio per epistolam," afterwards expugated and widely used. This author is not often quoted by Sayrus.<sup>4</sup>

Martin Azpilcueta (1557-1586) known generally as Navarrus. This last author whom we mention as a predecessor of Sayrus, is from his point of view the most important of all. Sayrus quotes him continually and always with the greatest reverence, even affection, and among his writings he has published an "epitome" of the "Consilia" of Navarrus. He is chiefly concerned with the interpretation of Canon Law, but his Manuale Confessoriorum entitles him to be considered one of the chief practical moralists. It has been reprinted repeatedly and "epitomised" almost beyond recognition. Of all the authors mentioned above it is to Navarrus that Sayrus is chiefly indebted.<sup>5</sup>

Before passing on to the contemporaries of Sayrus it will be noted that all the above authors, selected as being the most noteworthy of his predecessors, are Spanish.

## (B) CONTEMPORARIES.

Before mentioning the authors, who like Sayrus, elucidated the principles of Moral Theology by the more or less extensive use of casuistry, the first place must be given to the three great post-Tridentine Scholastics Bannez, Suarez and Vasquez.

Dominic Bannez, O.P. (1584-1604). Renowned as the opponent of Molina in the controversies on Grace and Free Will, he wrote also a treatise on Justice, and on the Theological Virtues in a commentary on the II-IIae of St. Thomas, besides smaller works on the Sacraments.<sup>6</sup>

1 Hurter Nomenclator III, 353. Hurter puts his death at 1584. Scmitt. Geschichte des Probabilismus p. 81 puts it at 1595.

2 Hurter III, 148.

3 Ibid 247.

4 Ibid 222.

5 Ibid 344.

6 Hurter III, 389.

Francis Suarez, S.J. (1594-1617). It would be useless to specify any particular treatise of Suarez since in his voluminous writings, filling XXVIII. volumes in the Vives edition, practically every subject is treated. Perhaps from the point of view of Moral Theology the treatise "*De Virtute Religionis*" is the most noteworthy. He is not used by Sayrus to the same extent as the next author mentioned.<sup>1</sup>

Gabriel Vasquez, S.J. (1590-1604) taught theology at Rome while Sayrus was a student there 1582-1588. His influence therefore on our author is necessarily very great. He approaches Suarez somewhat in the extent and variety of his writings, both in dogmatic and moral theology, in the form of a Commentary on the whole of the *Summa* of St. Thomas.<sup>2</sup>

Bartholomew de Ledesma, O.P. (1599-1604), the author of two works of casuistry, one in Spanish, the other in Latin, also a treatise "*De vitiis et peccatis in genere*."<sup>3</sup>

Gregory de Valentia, S.J. (1591-1603) is one of the few Spanish Theologians who engaged in controversy with heretics. His commentary on the *Summa* is written chiefly with a polemical purpose, but contains much matter pertaining to Moral Theology, and is frequently quoted by Sayrus.<sup>4</sup>

Henricus Henriquez, S.J. (1591-1608), dealt with "*De Fine hominis*," "*De Sacramentis*" and "*De Censuris*."<sup>5</sup>

Michael Salon O. Eram, S.A. (1581-1620) wrote "*De Justitia et Jure*."<sup>6</sup>

Emmanuel Rodriguez, O.Min. (1598-1613) is a canonist of repute—"Questiones Regulares et Canonicae," and also wrote in Spanish a book of casuistry.<sup>7</sup>

John Azor, S.J. (1600-1603) covers nearly the whole of Moral Theology in his manual "*Institutiones Morales*." The fact that this work was published towards the end of Sayrus' life, when he was preparing his own similar work "*Clavis Regia*" for publication, explains why it is not quoted or used by him.<sup>8</sup>

It will be noticed again that all these authors enumerated are Spanish, so that if we pass over a certain number of less important names, it may be said that among his contemporaries Sayrus was the only non-Spanish theologian of any eminence. In drawing a distinction between his contemporaries and his successors, I have taken into account as far as it was possible to ascertain, the date of the first publication of the various authors, and also the fact that they are not quoted or mention by him.

1 Ibid 376.

2 Ibid 385.

3 Ibid 599.

4 Ibid 401.

5 Hurter III, 401.

6 Ibid 589.

7 Ibid 592.

8 Ibid 590.

## (C) IMMEDIATE SUCCESSORS.

In the following years there was no great scholastic theologian in any way comparable to Bannez or Suarez until John of St. Thomas, O.P. (1638-1644).

Peter de Ledesma, O.P. (1596-1616) commented on various parts of the Summa and wrote two separate treatises "De Magno Matrimonii Sacramento" and "Summa de Sacramentis."<sup>1</sup>

Didacus Alvarez, O.P. (1610-1635) one of the chief figures in the controversy on Grace, besides his various works on this subject, commented also on I-IIae of St. Thomas.<sup>2</sup>

Raphael de la Torre, O.P. (1611-1612) commented on I-IIae and IIae and is one of the best examples of Spanish Moral Theologians who treated the subject in a profound and scholastic manner.<sup>3</sup>

Paul Comitulus, S.J. (1609-1626) an Italian, was one of the few opponents of Probabilism. "Responsa Moralia in septem libros digesta."<sup>4</sup>

Leonard Lessius, S.J. (1605-1623) a Belgian, the author of a celebrated treatise "De Justitia," is the chief light of the Louvain school. He wrote also other less known moral works: "De Beatitudine," "De Actibus Humanis" and "De Sacramentis."<sup>5</sup>

Valerius Reginaldus, S.J. (1611-1623) a Frenchman, wrote "Praxis Fori Penitentialis," a manual on the Sacraments, and many books of Casuistry. He is considered by St. Alphonsus one of the classical authors in Moral Theology.<sup>6</sup>

Vincent Filiucci, S.J. (1622) an Italian, wrote a Synopsis of Moral Theology and "Instructio Confessariorum."<sup>7</sup>

John de Salas, S.J. (1607-1612) commented on I-IIae and II-IIae of St. Thomas.<sup>8</sup>

Ferdinand Rebellus, S.J. (1608) wrote "De obligationibus Justitiae, religionis et caritatis." Like his fellow countryman Comitulus, he was an opponent of Probabilism.<sup>9</sup>

Martin Bonacina (1624-1631) an Italian. His various works on Moral Theology were published in a "Compendium" in 1630.<sup>9</sup>

Thomas Sanchez, S.J. (1602-1610). This well known author's classical work on Matrimony was published in 1602, the year Sayrus died. He wrote also a less known "Opus

1 Hurter, III, 391.

2 Ibid 659.

3 Ibid 589.

4 Ibid 887.

5 Ibid 619.

6 Ibid 894.

7 Ibid 887.

8 Ibid 598.

9 Ibid 888.



morale in precepta Decalogi," in which he dealt with Principles and Precepts. Though in this work on the decalogue several lax opinions are to be found, Thomas Sanchez is carefully to be distinguished from John Sanchez, (1624) a manifest laxist whose work on the Sacraments is placed on the Index.<sup>1</sup>

It will be seen in the years after Sayrus' death that quite a large number of authors are non-Spanish, but the great scholastic theologians, as distinct from those who employed the casuistical method, are chiefly Spanish and of the Dominican Order. With the exception of Comitulus and Rebellus they all favoured Probabilism, and lax opinions, which later on were to result in the series of Condemned Propositions of Alexander VII. and Innocent XI., already began to creep in.

### Section 3.—The Works of Sayrus.

(i) "CLAVIS REGIA Sacerdotum Casuum Conscientiae, sive Theologiae Moralis thesauri locos omnes aperiens, et Canonistarum atque Summistarum difficultates, ad communem praxim pertinentes doctissime decidens, et copiosissime explicans. Celeberrimorum omnium Scriptorum Antiquorum aequae et Recentiorum auctoritate fidelissime citata, et accerrimo iudicio pro causarum necessitate disposita.

Ad usum omnium cum Theologorum, tum Parochorum, et Confessariorum utilitatem singulare Opus exquisitissimum, et maiori quam hactenus diligentia acuratissime elaboratum."

From the title of this, the most widely known of Sayrus works, one would not gather that it corresponds exactly to "De Principiis" and "De Preceptis" of modern manuals. It is divided into twelve Books: i. De Conscientia, ii. De Actibus humanis, iii. De Legibus in Communi, iv. De Cultu Dei et Sanctorum, v. De Juramentis, vi. De Votis, vii. De Sanctificatione Sabbati et Festorum, De Pietate erga parentes, De Homicidio, viii. De Luxuria, ix. De Jure et Justitia, x. De Restitutione in genere, xi. De Restitutione in particulari, xii. De Mendacio.

The Antwerp edition (1619) is a folio of 1034 double column pages. This work has passed through ten editions: 1st Edition, Venice (Baretius) 1605; 2nd Edition, Venice (Baretius) 1606; 3rd Edition, Venice (Baretius) 1607; 4th Edition, Cologne (Agrippina) 1608; 5th Edition, Venice (Baretius) 1610; 6th Edition, Venice (Baretius) 1615, accesserunt utilia additamenta necnon Catenula aurea de

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<sup>1</sup> Hurter III, 592, 893.



comparatione peccatorum R. P. F. Paulini Berti Ordinis Erimitarum S. Augustini ; 7th Edition, Antwerp (Keerberg) 1619, a multis mendis expurgatum et ad primam eiusdem auctoris integritatem restitutum. (This is the edition used in the present dissertation). 8th Edition, Douay (Bellerus) 1621; 9th Edition, Münster, 1628 ; 10th Edition, Antwerp (Keerberg) 1659.

(ii.) "THESAURUS CASUUM CONSCIENTIAE, continens Praxim exactissimam de Censuris Ecclesiasticis, aliisque poenis, et canonicis impedimentis, in septem libros distributus." The seven books treat of the following subjects : i. De Excommunicationis Natura, ii. De Effectibus illius, iii. De Excommunicatione "Bullae Coenae Domini," aliisque omnibus, iv. De Suspensione, v. De Interdicto, Cessatione a Divinis, Depositione, et Degradatione, vi. De Irregularitatibus ex defectu, vii. De Irregularitatibus ex delicto.

The Venice edition (1618) is a folio of 564 double column pages. It passed through seven editions : 1st Edition, Venice (Baretius) 1601 ; 2nd Edition, Venice (Colosinus) 1606 ; 3rd Edition, Venice (Sessas) 1609 ; 4th Edition, Venice (Sessas) 1614 ; 5th Edition, Venice (Baretius) 1618, accesserunt additiones R. D. Francisci Baretti ; 6th Edition, Douay (Bellerus) 1621 ; 7th Edition, Venice (Baretius) 1627.

(iii.) "DE SACRAMENTIS IN COMMUNI, opus theologicum Tripartitum et plane aureum, in quo ea omnia, quae vel ad difficillimas quasque questiones Theologicas definiendas ; vel ad casus omnes conscientiae dissolvendos, vel ad singulos hereticorum errores refellendos attinent, tum ex Sacrae Ecclesiae Patribus ; tum ex canonistis, Summistis, et aliis omnibus antiquioribus et recentioribus orthodoxis scriptoribus, ita abunde et accurate explicantur, ut nihil amplius in hac materia studiosus lector desiderare possit." This book is chiefly of a dogmatic character, and is concerned only very slightly with solving cases. It follows the doctrine of St. Thomas closely throughout. The Venice edition (1619) is a large octavo of 554 double column pages. It had five editions : 1st Edition, Venice (Zenari) 1599 ; 2nd Edition, (Zenari) 1600 ; 3rd Edition, Venice (Zenari) 1601 ; 4th Edition Venice (Zenari) 1619 ; 5th Edition, Douay (Bellerus) 1621.

(iv.) "DECISIONES Casuum Conscientiae ex doctrina Consiliorum Martini ab Azpilcueta Doctoris Navarri collectae, et juxta librorum Juris Canonici dispositionem in suos titulos distributae, cum annotationibus, quibus ob recentiores quasdam Summorum Pontificum Bullas, quando Authoris opinio in multis, vel confirmata, vel refutata est, summo studio et diligentia explicatur."

The Venice edition (1619) is a folio of about 200 double column pages. It passed through seven editions with "Thesaurus Casuum Conscientiae" (De Censuris): 1st Edition Venice (Baretius) 1601; 2nd Edition, Venice (Baretius) 1605; 3rd Edition, Venice (Baretius, 1607); 4th Edition, Venice (Baretius) 1611; 5th Edition, Venice (1619); 6th Edition, Douay (Bellerus) 1621; 7th Edition, Venice (Baretius) 1627.

(v.) "SUMMA SACRAMENTI POENITENTIAE ex eruditissimis commentariis Doctoris Navarri in septem distinctiones de Poenitentia collecta, in qua ea omnia, quae ad Sacramenti Poenitentiae doctrinam pertinent, eiusque ad usum, quotidianam praxim necessaria esse possunt, breviter, dilucideque explicantur."

It is a small octavo of 125 pages and had two editions: 1st Edition, Venice (Baretius) 1601; 2nd Edition, Venice (Baretius) 1615.

(vi.) "Meditatio in Psalmum "Miserere mei Deus" et in "Orationem Dominicam." This exists, in the author's manuscript; in the Tabularium of Monte Cassino. It may be found in Gattula "Historia Abbatiae Cassinensis," Vol. II. p. 763. A further MS. Treatise on Moral Theology, doubtless the continuation of the "Thesaurus" which he was contemplating, is mentioned<sup>1</sup> but I can find no trace of it now.

It will be seen from the number of editions through which some of his works passed, that they had for a time a great popularity. Two of them moreover were issued in a Compendium: "Clavis Regia" and "De Censuris":

"COMPENDIUM Clavis Regiae R.P.D. Gregorii Sayro Anglo, Congregationis Cassinensis auctore, et P.D. Constantino de Notariis Nolano, Sacri Cavensis Coenobii compilatore." It was published at Venice by Bernardus Juncta in two editions, 1613 and 1621.

"De Ecclesiasticis Censuris et aliis in admod, R.P.D. Gregorii Sayri Thesauro contentis una cum regulis pro cuiuscumque Bullae in Coena Domini facili explicatione, ex eodem desumptis FORMALE COMPENDIUM. Per R.P.F. Ant. Ninum Ord. Erem. S. Augustini." Venice 1624.

The theological position of Sayrus can therefore be briefly determined. His work is of a mixed character, neither entirely speculative nor entirely casuistical, but uniting both in manual form for the use of the ordinary clergy, and applying very largely the science of Canon Law in

<sup>1</sup> Athenae Cantab. II. p. 835.

the teaching of Moral Theology. Among English theologians he stands alone; among those of the Benedictine Order Graffius is the only one who can compare with him; among other theologians he is of the school of Navarrus. A contemporary of Vasquez and Azor, his position is immediately before Sanchez and immediately after Lud. Lopez. The value of his work and its influence, and the position he took in various controversies will be dealt with in the course of the dissertation. But before everything else his position with regard to Probabilism must be settled, for since the beginning of the XVII. century this is the criterion by which an author's status is largely determined.

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# PART II.

## CHAPTER V.

### "THE MORAL SYSTEMS."

Section 1. The various systems. Certitude, doubt, opinion, probability—Tutorism, Probabiliorism, Equiprobabilism, Probabilism, Laxism, Compensationism.

Section 2. The historical development of the Moral Systems. Unknown before the XVI. century. The Scholastics and St. Thomas. Pre-Medina opinion. Probabilism universally accepted at beginning of XVI. century.

#### Section 1.—The various Moral Systems.

THE object of this section is to outline as briefly and exactly as possible the different systems *as we speak of them to-day*. To many of the early Probabilists such barbarous terms as "Equiprobabilism" would have been entirely unknown, though perhaps in substance they defended the doctrine known and recognised now under that term. Whether any given individual author belonged to this school or that is still the subject of controversy between the partisans of the various systems, but in order to obtain even a small degree of finality in this tangled question, we must try to determine some notions which are at least common to all systems. The air has become so thick with controversy that non-Catholics may perhaps be excused for not discerning the great points of Catholic moral teaching, which are undoubted and indubitable.

In the first place it is a question of determining the limit of a person's obligation, not a question of what is advisable and virtuous and befitting an heroic follower of Christ. A man, let us suppose, can only hear Mass by walking ten miles. Is he bound to walk ten miles? To do so is heroic and virtuous and the safer course, but no one would say he is *bound* to do so under pain of sin. And here is the danger and the snare. Bishop Ullathorne in a famous passage defines Moral Theology as "the science of discovering the least amount of obligation consistent with an easy conscience,"<sup>1</sup> and proceeds to warn his readers of the dangers of ruling their lives, their duties and their vocation to sanctity by the lower light of legal obligation rather than by the higher light which leads to God. The saintly Bishop is wrong in this definition; it may be the part of a prudent confessor sometimes to safeguard and further the penitent's spiritual welfare by stretching his obligations to their last limit; but to say that Moral Theology consists in this is ludicrous and absurd.

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<sup>1</sup> Ecclesiastical Discourses VI.



Another broad principle, standing high and above all petty discussions, is that a certain dictate of conscience binds always, so that if a man thinks he is bound to walk ten miles to hear Mass, he sins by omitting to do so; and it binds in a similar manner even if that dictate of conscience is an erroneous one, and its voice must be listened to even before the voice of any earthly superior.<sup>1</sup> Doubts as to the proper course to pursue will and must arise in practical life; it is the universal teaching of Catholic schools that it is never licit to act with a doubtful conscience; I must pause and somehow or other resolve this doubt and render my conscience subjectively certain before acting; a doubt of a speculative nature of course remains, but here and now for this particular action I must have a practical certainty before acting. We must note here that the term "doubtful conscience" is a contradiction in terms, and it would be much better if it had never been used at all, and in fact it is never used by St. Thomas. Conscience is a judgment, and doubt is a suspension of judgment, and instead of saying; "how am I to act when my conscience is doubtful?" it would be more accurate to say "how am I to form a dictate of conscience when a doubt exists in my mind about the liceity of my action?" However, the phrase "doubtful conscience" is now in universal use as meaning the state of mind, not the act of judgment.<sup>2</sup>

To understand the point at issue the ideas of "certitude," "doubt," "opinion," and "probability" must be carefully distinguished.

CERTITUDE is a firm assent of the mind given to some proposition *without fear of error*. In mathematics and other exact sciences we can have SPECULATIVE certainty: for any one capable of following the demonstration of a proposition of Euclid there can be no sort of doubt concerning the truth of the conclusion; it is absolute. In moral science dealing with the practical affairs of human life, the certitude of conscience required is of a PRACTICAL kind. It is determined not so much from principles self-evident in the object, but from the influx of the will. The assent is just as firm, just as free from fear of error as in any other sort of certitude, in fact subjectively it is very often more certain, but the difference is that PRACTICAL certitude is *free*, because it depends more on the will than on principles inherent in the object. It therefore frequently happens that the mind can have, at the same time and on the

1 Cf. Sayrus teaching on these points, following St. Thomas, Chap. VI. infra. 2 Prümmer. Theol. Moral, I, §328 n.i.

same question, a speculative doubt yet a practical certainty; in moral matters about which we are speaking, certitude is always understood to be of the practical kind.

DOUBT is the state of mind which suspends judgment and assent, either because no reasons are known for affirming or denying a proposition, or because there are just as weighty reasons on one side as on the other; in the former case the doubt is called "negative" in the latter "positive." The doubt of which we speak in serious moral discussions is the positive sort; people affected with scruples, and imbeciles, have negative doubt i.e., either based on no reasons at all, or on reasons so slight as to be negligible. It is with resolving these positive practical doubts that the moral systems, Probabilism and the rest, are concerned.

OPINION is the adhesion of the mind to one proposition but with the fear that after all the opposite may be true. PROBABILITY in the matter of practical judgments is equivalent to opinion; a proposition is probable if it has the *appearance* of truth. All the systems have this in common that they depart from the Thomistic and Aristotelian notion of "probable." For St. Thomas "probabile" is "verisimile," and is opposed not to another "probabile" but to "falsisimile;" a thing is probable or has the appearance of truth when it appears acceptable, to the exclusion of the contrary proposition. From the purely speculative aspect, there still remains a fear of error, but from the aspect of practical judgment—and with this alone we are dealing in moral science—a judgment which is "probable" excludes fear of practical error, and is practically equivalent to certitude, because it is determined by motives which satisfy the will to command assent.<sup>1</sup>

The modern systems, that is dating from about 1520, take for granted and pre-suppose varying degrees of probability: some *intrinsic* to the matter under consideration others *extrinsic*. The probability is *intrinsically* slight, solid or weighty, according to the arguments on which it rests: it has similar degrees *extrinsically* according to the learning, authority and number of theologians who defend it. The various opinions on a given disputed matter are therefore divided into "slightly probable," "solidly probable," "more probable," and "most probable." The question the various systems set out to discuss, is the degree of probability required to justify a person in disregarding a doubtful obligation. It must be clearly born in mind to avoid confusion

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<sup>1</sup> Cf. De Veritate q. 14. art. 1.

that the subject is not discussed from the point of view of safety and security; an opinion is less safe or more safe according as it makes the danger of sinning less remote or more remote; it is less probable or more probable according as it has less or more appearance of truth: "*probabilitas sumitur ex apparentia veritatis; securitas ex remotione periculi peccandi.*"<sup>1</sup>

An opinion may be less safe but more probable and vice versa: thus the opinion that a man is bound to walk ten miles to hear Mass is more safe, but less probable according to the judgment of theologians. In a word it is a discussion on Liberty versus Law, and here again this is common to all the systems and a departure from St. Thomas, that they each, in resolving a doubt in the internal forum of conscience, bring to their assistance reflex principles borrowed from the external forum of civil and canon law. In fact if not in word, law is regarded as an enemy of liberty which has to be circumvented and defeated. For St. Thomas "*lex non est inimica*," and doubts are solved not from external reflex principles, but from principles proper to the virtue vice or obligation under discussion. The reflex principles themselves in the modern systems have to be limited and hemmed round by innumerable exceptions, in order to avoid propositions which have been condemned at various times by the Holy See. Such principles are for example: "*lex dubia non obligat*," "*in dubio melior est conditio possidentis*," "*in dubio favores sunt ampliandi et odia restringenda*," "*in dubio standum est pro eo pro quo stat presumptio*," etc. They will be more conveniently explained under each system. It is apparent that the attempt to define a universal system which will be applicable to all cases, is an extremely complicated and unsatisfactory matter, and it has become still more complicated by the misrepresentations and exaggerations of opposing factions. We will set out these systems briefly, using the accepted titles which are more expressive than harmonious.

**Tutorism.** "Safety first." The safe course, i.e., favouring the law, must always be followed unless it is certain that the law or obligation does not bind. It has its foundation in Jansenistic doctrine and was condemned by Alexander VIII., Dec. 7th, 1690, in a proposition taken from the writings of John Sinnich (d. 1666) an Irishman and a doctor of Louvain.<sup>2</sup>

<sup>1</sup> Billuart IV. diss. vi art. 1.

<sup>2</sup> Bouquillon §274 gives the text; DNB. LII. 316; Denz. 1293 from Sinnich.



**Mitigated Tutorism.** It is licit to follow a less safe course provided that the opinion favouring liberty is most probable. The condemned proposition of Sinnich reads "non licet sequi opinionem vel inter probabiles probabillissimam." This system, only differing in degree from tutorism, would make human life impossible. It was taught at Louvain after the stricter proposition was condemned, during the XVII. and XVIII. centuries by Steyaert (d. 1701), Opstraet (d. 1720) and Dens (d. 1775); also by Cardinal Gerdil (d. 1802). No one defends it nowadays.<sup>1</sup>

**Probabiliorism.** It is licit to follow a less safe course, provided that the opinion favouring liberty is more probable than the opinion favouring the safe course. This system, whose classical exponent is Billuart,<sup>2</sup> is beyond any doubt the most respectable of all, having in its favour the older authors before the XVI. century, as far as they can be said to expound any system at all. In practice however it is really useless, for it is nowadays almost universally conceded that the Confessor cannot insist on a more probable opinion being followed, if the penitent elects to follow a probable opinion.<sup>3</sup> Of what use is a system which cannot be followed in its logical consequences?

**Equiprobabilism.** If it is a question of the *existence* of a law, it is licit to follow the less safe opinion provided that it has equal or almost equal probability as the safe opinion; but if it is a question of the *cessation* of a law, the less safe opinion can be followed if it is more probable than the safe opinion. The system is partly therefore equivalent to Probabiliorism, but there is an added complication in the distinction between the existence and the cessation of a law or obligation; the reason for this distinction arises from the juristic principle of possession on which the system is based, "in dubio melior est conditio possidentis." It is a certain and most useful principle for the external forum especially in matters of justice, but when applied to all cases of conscience to settle a dispute as it were between the right of possession of "law" and "liberty," it is often impossible to decide which of the two is really in possession. Thus in a doubt whether a person has committed a mortal sin, and there is equal probability for and against, he is not bound to confess it strictly speaking, because liberty is in possession; but in a doubt whether a mortal sin certainly committed has been confessed or not, he is bound to confess it because the law of confession is in possession. In practice there is the same illogical consequence as in Probabiliorism when the Confessor finds his system in conflict with the views of the penitent.

<sup>1</sup> Bouquillon op. cit. §293.

<sup>2</sup> Vol. IV Diss. vi cit. 1.

<sup>3</sup> S. Alphonsus Theol. Moral. VI. 604.



Equiprobabilism is defended chiefly by Redemptorist theologians following St. Alphonsus who adhered to this method certainly from the year 1762. From 1730-1748 he was a Probabiliorist; from 1748-1762 a moderate Probabilist; and from 1762 an Equiprobabilist and towards the end of his life almost approaching a Probabiliorist.<sup>1</sup> Bearing in mind his great authority in Moral Theology and the emphatic approbation given by the Church on several occasions, it is also apparent that his writings and opinions must be studied in conjunction with his life and letters, in order to arrive at any degree of finality in regard to his system.

**Probabilism.** It is licit to follow a less safe course if the opinion favouring liberty is solidly probable, even though the opinion favouring the law or the obligation is more probable. First clearly explained by Barth. Medina (1577) and other Spanish Dominicans immediately following him, it has nowadays become the characteristic system of the theologians of the Society of Jesus. Its corner stone and foundation is the juristic principle "*lex dubia non obligat*" thus explained by Fr. Slater, S.J. "Whenever there is a solidly probable opinion that a particular action is lawful, there is no certain law forbidding one to perform it. But it is lawful to do what no certain law forbids. Therefore when there is only question of committing sin or not, it is lawful to follow a solidly probable opinion even though the opposite may be more probable."<sup>2</sup>

The very fact that there exists a solid probability against the law proves that the law is uncertain and insufficiently promulgated, no matter if the probabilities for the law are equally solid, or more solid; for the greater probability of the safe view does not make it certain or more true. The judgment that a probability is solid can be arrived at on *intrinsic* grounds only by learned men well versed in the matter under discussion; others must be content with *extrinsic* solid probability, i.e., by getting assured that it is commonly held by theologians, or by six grave authors, or by even one illustrious author as S. Thomas, S. Antoninus or S. Alphonsus.<sup>3</sup> The system if applied to all cases would involve condemned propositions; therefore a probable opinion cannot be followed in administering the Sacraments, in matters pertaining to eternal salvation, and in matters of justice where the rights of a third party are concerned.<sup>4</sup>

<sup>1</sup> Mondino. Sistema Morale di S. Alfonso. Monza 1911.

<sup>2</sup> Moral Theol. I, p. 72.

<sup>3</sup> Response of the Sacred Penitentiary

July 5.1831 re. S. Alphonsus.

<sup>4</sup> Denzinger 1151, 1154, 1126.

Its promotors claim that Probabilism has been at least implicitly approved by the Church in the approbation given to the works of St. Alphonsus. But the same may be said of Equiprobabilism and Probabiliorism, the latter more especially, not only implicitly but explicitly, in the commendations of various Popes. The most that can be said is that the Church has so far tolerated Probabilism, and it cannot be insisted too strongly against Döllinger-Reusch and other Protestants, that Probabilism is emphatically not the official system of the Church. But the chief objection against it is that it opens the way to Laxism. It is extremely easy for a theologian to persuade himself that an opinion that he wishes to hold in favour of liberty, has solid probability.

**Laxism.** It is licit to follow a less safe course, if the opinion favouring liberty is even slightly or doubtfully probable. The abuse of the principles of probabilism lead to many lax and immoral opinions among theologians in the latter half of the XVII. century, causing enormous harm to the Church especially through the vigorous onslaught of Pascal; it is from the "Lettres Provinciales" that the average non-Catholic makes a first acquaintance with Catholic Moral Theology—extracts from Thomas Tamburinus (1675), John Sanchez (d. 1624), Escobar (d. 1669) and most of all Caramuel (d. 1682), whom S. Alphonsus called "princeps laxistarum," and Diana (1663) hailed by Caramuel "Agnus Dei qui tollit peccata mundi."<sup>1</sup> These lax doctrines were of course condemned officially by the Church, and in particular the system on which they were based "Si liber sit alicuius junioris et moderni, debet opinio censeri probabilis, dum non constet, rejectari esse a Sede Apostolica tanquam improbabilem."<sup>2</sup> "Generatim, dum probabilitate sive intrinseca sive extrinseca quantumvis tenui, modo a probabilitatis finibus non exeatur, confisi aliquid agimus prudenter agimus."<sup>3</sup>

**Compensationism.** It is licit to follow a less safe course, if the opinion favouring liberty is not only solidly probable, but is warranted by the circumstances of the individual case. It is not strictly speaking a system which is applicable to all cases by means of definite rules, but each case is solved differently, not only according to the degree of probability attached to a particular opinion, but also according to the importance of the law, and the degree of utility accompanying the action. The smaller the degree of probability in the less

1 Boisdron. *Théories et systèmes des probabilités* p. 8.

2 Prop. 27 Alex VII, 1665. Denz 1127 (from Roccafull).

3 Prop. 3 Innocent XI, 1679 (Denz 1153).

safe opinion and the more important the law, the greater must be the compensating utility of the action whose morality is called in question. In effect it is reduced to the principle of co-operation in an evil effect, or "voluntarium indirectum." This system, in some respects modern,<sup>1</sup> has the advantage of avoiding the evils of all the other systems; it does not offer the same mathematical precision as the other systems, but leaves the decision practically to the judgment of a prudent man, and in this respect at least it can be said to represent more nearly than the other systems the mind of St. Thomas.

## Section 2.—The Historical Development of the Moral Systems.

The student who studies this complicated subject in the hope of arriving at certain conclusions is doomed to disappointment. The elusive nature of the various systems, and the fact that their early proponents often wrote in a confused and vague manner, make it almost impossible to state with certainty the system defended by them. Add to this the lamentable but patent fact that the authors who have written on the history of the subject, are often so carried away with enthusiasm and bias for their own particular view, that they read it into the writers whose opinions they are considering. Not to mention non-Catholic authors like Döllinger-Reusch or Lea who are concerned with defaming Catholic morality, very often Catholic theologians arrive at opposite conclusions regarding the same author. Thus the thesis of Fr. Ter Haar, C.S.S.R., that a large number of authors between 1577-1625 were Equiprobabilists, is denounced by Fr. Schmitt, S.J. as erroneous and uncritical, for they were evidently good and moderate probabilists like himself.<sup>2</sup> Even the great work of Concina, which remains the only classical book on the subject, is more concerned with polemic than history.<sup>3</sup> One can only hope therefore to pick out the salient facts which appear beyond all dispute, and outline the development of Probabilism and kindred systems, in order to determine as nearly as possible the position held by Sayrus in this complicated matter.

One thing is historically certain, that before the XVI. century there was no hint or vestige of any Moral System among theological writers. It is futile to sift texts of the Fathers in order to find statements which apparently favour the principles of one or other of the systems. Thus St. Augustine argues that marriage with an infidel is not unlaw-

<sup>1</sup> Cf. Potton "De Theoria Probabilitatis" Paris 1874.

<sup>2</sup> Ter Haar "De Systemate Antiq. Probabil." Schmitt "Geschichte des Probabilismus" p. 177. <sup>3</sup> Concina "Della Storia del Probabilismo." All the salient points are contained in the same author's "Apparatus" II, pp. 266-711.



ful because not clearly condemned, St. Gregory Nazianzen that a second marriage is not unlawful since the prohibition is doubtful "*quod si res dubia est vincat humanitas et facilitas.*"<sup>1</sup> The solution given of these and similar cases is beside the point, for the Fathers solved each case on its own merits, and did not make any attempt to evolve a system which would be applicable to all, and this is precisely the *raison d'être* of all the systems. Even their use of the word "probable" is totally different from the sense in which it is discussed in the systems, which all take for granted the existence of varying degrees of probability on a given question.<sup>2</sup>

Not to mention the Fathers a proposition condemned as "*erronea et heresi proxima*" by Clement XIII. February 26th, 1761, makes the blasphemous assertion that Christ Our Lord was a probabilist "*qui Christo Domino summe familiaris fuit.*"<sup>3</sup> Fr. Terill, S.J., a famous protagonist of Probabilism who "tried to stem the tide of laxity in an age of immorality by stating the theory of Probabilism more accurately and limiting its use to its proper sphere,"<sup>4</sup> being a more moderate man, is of the opinion that Our Lady and St. Joseph were Probabilists.<sup>5</sup> The fact is that these belated efforts to prove the antiquity of Probabilism or any other system, only began after the condemnation of lax propositions had led to violent controversy and disputes. The early proponents gloried in its novelty as a happy invention; their disciples and successors laboured to support it by patristic arguments.

With regard to the Scholastics, it is not possible within the scope of this dissertation, to discuss adequately their method. A large number of quotations are given by Concina arguing the opposition of St. Bonaventure Scotus and the Summists to Probabilism, but from this it does not follow that they were Probabiliorists in the modern sense of the word, since the meaning of "probable" and all its degrees, that obtains commonly nowadays, is entirely different to the Scholastic sense of the word.<sup>6</sup> But reference must be made to a text of St. Thomas Aquinas which is always quoted, and wrongly quoted, in favour of the system of Probabilism. "*Unde nullus ligatur per praeceptum aliquod nisi mediante scientia illius precepti; et ideo ille qui non est capax notitiae, praecepto non ligatur; nec aliquis ignorans preceptum Dei, ligatur ad preceptum faciendum nisi quatenus tenetur scire*

1 Quoted by J. M. Harty in Catholic Encyclopedia XII, 441.

2 Boisdron Op. cit. p. 16. Bouquillon p. 575 Theol. Fundam. consider several patristic texts to be understood in a probabilist sense.

3 Ferraris voce "Opinio" n. 8. (not mentioned in Denzinger.)

4 Slater, S. J. Moral Theol. p. 555, Vol. 11.

5 Full text Concina Storia Vol. II, p. 236.

6 Concina Apparatus II, Lib. III, diss. cap. v. p. 413.



praeceptum. Si autem non teneatur scire, nec sciat, nullo modo ex precepto ligatur."<sup>1</sup> It is the custom to quote this text in a truncated form "nullis ligatur per preceptum nisi mediante scientia illius precepti,"<sup>2</sup> and argue that according to St. Thomas we are only bound to the observance of a law when we have evident and certain knowledge of it—*scientia* in the strict sense of the word. But doubt excludes this evident and certain knowledge, and as long as there exists a probability that a law or obligation does not bind, it is not certain and evident; the text is reduced to the foundation and corner stone of Probabilism "Lex dubia non obligat."

This interpretation of St. Thomas rests on the assumption that in this passage the word "*scientia*" is to be taken in the strict sense as meaning the exclusion of all uncertainty, whereas in this passage it does not bear that sense, but is to be taken in the large and general meaning of "*notitia*." This is evident from the following sentence, and from another passage in *De Veritate*: "Cum dico conscientiam non dico vel implico scientiam solummodo stricte acceptam prout est tantum verorum, sed scientiam largo modo acceptam pro quacunque notitia, secundum quod omne quod novimus, communi usu loquendi scire dicimur."<sup>3</sup> Therefore the sense of the passage is that a person is bound in the degree in which he appreciates his obligation, and it emphatically does not mean that a law or obligation ceases to bind whenever it is not perceived with evidence and certainty, for in moral matters this certainty is scarcely ever attainable. And it is in this sense that St. Thomas solves the disputed question "*de duobus praebeendis*," by looking to the conscience of the person concerned.<sup>4</sup> St. Thomas was certainly not a probabilist, nor a probabiliorist, but simply a non-reflexist if one may coin a word. He solved cases, in the few instances cited, not by any external principle applicable to them all, but by principles proper to the subject under discussion, applied to the individual by the rules of prudence. Probable in his sense is "*verisimile*" and is opposed not to another probability but to "*falsissimile*."<sup>5</sup>

The Summists of the later scholastic period have this in common with the inventors of the moral systems, that they treated Moral Theology in a juridical manner, a tendency evident even at the time of St. Thomas, but in none of them can anything approaching a universal system be found. They

1 *De Veritate* Q. xvii art. 3.

2 Thus Génicot I, §69 and commonly all probabilists.

3 *De Veritate* Q. xvii art. 2 ad. 2.      4 *Quodlibeta*. viii. 13 ix, 15.

5 Of supra p. 56.

consistently taught that in the forum of conscience the safer course must be followed "In foro penitentiae semper pars tutior est eligenda licet videtur durior, quia in illa parte nullum subest periculum."<sup>1</sup> St. Antoninus (d. 1459) discussing the opinion to be followed in doubtful cases writes "agendo contra tale dubium non peccat dum adhaeret opinioni alicuius doctoris, et habet rationes probabiles pro ipsa magis quam pro opposita opinione." "Cum bona conscientia potest quis tenere unam partem alicuius opinionis, et secundum eam operari, secluso saltem scandalo . . . et credulitatem formet de eo quod credit, tanquam de probabiliore parte."<sup>2</sup>

This method of solving doubts apparently on what may be called probabiliorist principles gradually gained universal acceptance, so that on the eve of Medina's formulation of probabilism Corduba could say that "in hoc omnes doctores consentiunt."<sup>3</sup> A very good example of the state of sound theological opinion in the period just preceding Medina and the rise of probabilism, may be seen in Martin Azpilcueta (d. 1586) generally known as Navarrus from the place of his birth. He was a man eminent for piety and sound learning, throughout a long life the friend of successive Popes, and universally held in great esteem not only as a canonist but also as a moralist. Sayrus especially regards him with the greatest reverence, his opinions are always carefully considered, and he has left a commentary on the "Consilia."<sup>4</sup> In difference of opinion he teaches that the one is to be preferred which is confirmed by custom or an invincible argument, failing which the "opinio communis" must be followed; "communiorem enim ad hoc existimarem illam quam sex vel septem auctores classici rem ex professo tractantes assererent, quam probata a quinquaginta sola fere auctoritate priorum ductis" "in foro tamen conscientiae ad effectum non peccandi sufficit eligere pro vera eius opinionem quem merito censemus esse virum idonea ad id scientia, et conscientia peditum."<sup>5</sup> Terillus claims him as a probabilist, Concina as a probabiliorist, Lea as a tutiorist!<sup>6</sup> Beyond any doubt his teaching leans towards the Probabiliorism of the early Summists and in this he is representative of the general theological teaching during the middle of the XVI. century.

1 Summa Rosella v. Dubium. 2 Concina Apparatus II, p. 412.

3 Ibid p. 418. 4 Hurter Nomenclator III, col. 344.

5 Manuale Confess. c. 27, n. 289, 288. Other texts in Concina Apparatus II, 419 and Schmitt op. cit. pp. 27 seq.

6 Concina Apparatus II, 419. Lea op. cit. p. 296.

By the end of the XV. century it is incontestable that the majority of theologians defended the doctrines of Probabilism. One would be tempted to think that it was the literary and dogmatic upheavals of the XVI. century, the Renaissance and the Protestant Reformation, which had an unconscious reflection on theological opinion, and caused this complete change in so short a time. But as a matter of fact it was in Spain and in the Order of St. Dominic, in a setting—as Boisdron points out—which was most tenacious of traditional teaching, that the new opinions were first promulgated. Bart. Medina in his commentary on the I-IIae published in 1577 was certainly the first to defend Probabilism, *ex professo* and beyond all ambiguity, in the following thesis: “*Utrum teneamur sequi opinionem probabilior, relicta probabili; aut satis sit sequi opinionem probabilem. Soti, Sylvestri, Conradi et Cajetani negantium certe argumenta videntur optima, sed mihi videtur, quod si est opinio probabilis, licitum est eam sequi, licet opposita sit probabilior.*”<sup>1</sup> It was adopted at once by all Spanish Theologians.

Concina says that up to the year 1609 this probabilistic fetus had not emerged from the Spanish nest in which it was born,<sup>2</sup> but inasmuch as Sayrus who died in 1602 is regarded by him as a probabilist this statement is not quite correct. At any rate it spread with remarkable rapidity among theologians of every tribe tongue and nation, so that by the year 1638 it was universally taught in Catholic schools, with the not very notable exceptions of Ferd. Rebellus (d. 1608) and Paul Comitulus (d. 1624). From the nature of the system Probabilism inevitably led to laxity. The new system was adopted with enthusiasm by the Society of Jesus, and as early as 1617 the General of the Society, Fr. Vitelleschi, found it necessary to reproach his subjects with the laxity of some of the doctrines that were being taught.<sup>3</sup> But modern research has confirmed the historical accuracy of the statement in the preface to Terill's “*Regula Morum*,” that in 1638 Probabilism was the accepted system. In 1642 Candidus Philatelus, S.J. (Andreas Bianchi) wrote against it,<sup>4</sup> and in the same year the French Clergy protested against certain probabilist propositions, a protest repeated several times during the next twenty years.<sup>5</sup>

The condemnation of Jansenism by Innocent X. in 1653, and the consequent retaliation by the Louvain doctors in the

1 Q. 19 art. 6 concl. 3 in Boisdron Op. cit. p. 6. 2 Apparatus II p. 271.

3 Text in Concina Apparatus II p. 273. 4 Ibid p. 279.

5 Texts Faugère II, 349 seq.



condemnation of Probabilism 1655, marked the end of the practically unanimous acceptance of Probabilism. In 1656, the same year which saw the publication of the Provincial Letters of Pascal, the General Chapter of the Dominicans ordered Probabiliorism to be taught in the Order, and henceforth the Dominicans who were the earliest defenders of Probabilism became its most determined opponents.<sup>1</sup> It is beyond the scope of the present thesis to enter into the history of the controversies which continued for the next two hundred years, and are still continuing. The authorities of the Church in innumerable decrees and condemned propositions restrained excesses on either side, but did not effect unanimity of opinion. Through-out the XVIII. century the Louvain School taught a moderate Tutorism, Jesuits held tenaciously to Probabilism, Dominicans to Probabiliorism, and Redemptorists following St. Alphonsus to Equiprobabilism. The dissensions and disputes of the latter part of the XVII. century and onwards are in striking contrast to the practical unanimity in the acceptance of Probabilism which prevailed in the first part of the same century. Having noted this characteristic, we must determine more closely the opinion of theologians contemporary with Sayrus.

It is sufficiently evident that before Medina, the theory of Probabilism as defended by him was unknown, and the point is further proved from the fact that the early Probabilists quoted no pre-Medina theologians in support of their new system. Ludovicus Lopez, O.P. (d. 1595), writing in 1585 in defence of Probabilism admitted that Probabiliorism was the more common opinion. Thomas Sanchez (1610) whose work "De Preceptis Decalogi" first appeared the year after his death, quotes only Spanish Theologians, with the exception of Sayrus and Lessius.<sup>2</sup> But there were certainly others who defended the new system at the same time that Sanchez was writing, besides the Spanish School on which he chiefly depends. Thus Gregory of Valentia (d. 1603),<sup>3</sup> who though a Spaniard by birth exercised theological influence chiefly in Germany, is a decided probabilist; Henricus Henriquez (d. 1608) the teacher of Suarez, who though not a Spaniard by birth, may be reckoned as belonging to the Spanish School;<sup>4</sup> Lessius (d. 1623) the chief non-Spanish author among the early probabilists.

For the rest the great names and authority of the Spanish teachers were chiefly responsible for the rapid spread of the new theory: Bannez (d. 1604), Salon (d. 1620), Lud. Molina (d. 1600), Suarez (d. 1617), and Vasquez (1604). It was through Vasquez, under whom Sayrus learnt Theology in

1 Concina Apparatus II, p. 284.      2 Schmitt Op. cit. p. 107.

3 Hurter Vol. III, col. 401.      Schmitt p. 115.      4 Hurter III, 591.



Rome from 1582 to 1588, that our author's first acquaintance with Probabilism was gained. To what extent Sayrus adopted the new ideas will be seen in the following chapters. But since the principles underlying his teaching on Conscience are essential for the right understanding of his point of view, we will take first his doctrine on this subject.

## CHAPTER VI.

### THE TEACHING OF SAYRUS ON CONSCIENCE.

Section 1. Preliminary notions. Synderesis and Conscience. Conscience a practical judgment. Erroneous Conscience. Obligation.

Section 2. Two questions regarding an erroneous Conscience. Is it sinful to act against the judgment of an erroneous Conscience? Is it good and meritorious to act according to an erroneous Conscience?

#### Section 1.

AS the works of Sayrus are very rarely seen nowadays, this chapter on Conscience will contain fairly full extracts from the *Clavis Regia* in which the subject is treated. It will serve the double purpose not only of furnishing the necessary preliminary matter for the understanding of his teaching on Probabilism, but will also afford a good example of his fidelity to St. Thomas. After a short explanation of the meaning of Synderesis and Conscience in the Scriptures and the Fathers, he defines them briefly and concisely as follows: "*Est enim Synderesis habitus quidem generalis, sive lumen connaturale, cuius actus et officium est inclinare et instigare ad bonum, hominem a peccato retrahere, murmurando de malo . . . et definitur esse lumen innatum et animae concreatum, quo dirigimur et movemur ad faciendum ea quae pertinent ad vitationem culpae, et adeptiōnem gloriae. Conscientia vero definitur esse dictamen rationis, applicatum ad opus, dictans aliquid esse faciendum vel fugiendum. Quae definitiones manifestae erunt si prius quid ratio recta sit, quid lex naturalis annotaverimus. Est nempe ratio recta participatio quaedam, et conformitas ordinationi Divinae, unde sicut Divina infallibilis regula est omnis boni, ita ratio recta est regula et norma operationum humanarum, qua honesta et turpia judicantur universa . . . . Lex vero naturalis est lumen rationis humanae a Deo Creatore et Conditore, una cum natura mentibus hominum insitum ad aliquid faciendum vel non faciendum. Ipse idem Deus qui rationalem creaturam ad imaginem et similitudinem suam condidit, etiam creaturae rationali quaedam suorum actuum principia legesque communes impressit, secundum quae dum libere operatur, rationem rectam sequi dicitur, et studiose operatur.*"<sup>1</sup>

<sup>1</sup> *Clavis Regia* Lib. I, c. ii, n. 4 and 5. St. Thomas, *Summa I*, 79 a. 12 and 13; I-IIae 19, a 5 and 6; *De Veritate* Q. 16 and 17.

A further point to be borne in mind, and constantly referred to by Sayrus is that the judgment of Conscience is a *practical* one not a *speculation*. Endless speculation about the good the beautiful and the virtuous, is very often dangerous and harmful to the human Conscience, and modern intellectualists are frequently the enemies of morality "Finis speculativus (rationis seu intellectus) est intendere veritati cognoscendae; finis vero practicae est dirigere operationem . . . . Sicut in intellectu speculativo ponitur habitus quidam primorum principiorum, quo assentimur primis principiis speculativis, ita in intellectu practico constituimus habitum primorum principiorum, quo assentimur primis principiis practicis, bonum esse sequendum, malum fugiendum, et hunc habitum nominamus Synderesim . . . Hinc colligitur conscientiam ortum habere ex naturali judicio rationis, quod dicitur lex intellectus, et ab eo est deducta et derivata ut quaedam conclusio. Fit in mente hominis quidam syllogismus cuius maiorem praemittet Synderesis, dicens omne malum est vitandum. Minorem vero assumit ratio superior, dicens adulterium esse malum quia a Deo prohibitum, ratio autem inferior idem affirmat esse malum, quia turpe, quia injustum, quia incommodum, et tunc Conscientia infert conclusionem particularem: ergo adulterium est vitandum; unde dicitur conscientia, cum aliquo scientia, seu concludens scientia, eo quod scientia ratione predictorum, scilicet Synderesis et rationis superioris, conclusionem practicae infert."<sup>1</sup>

Hence the voice of Conscience is the authoritative guide of conduct, the herald of God, making known to him and applying the eternal law of God in every affair of a man's practical conduct; after an action it is a witness accusing or praising: "tunc dicitur conscientia nos accusare, vel excusare, reprehendere, remordere . . . consequuntur dolus vel gaudium, turbatio vel quies tanquam effectus. Et secundum hos duos modos dicitur conscientia bona vel mala, pura munda vel coinquinata."<sup>2</sup> Before the action it is an authoritative dictate telling us what to do here and now, and it has a binding force, obliging the will to act according to its dictates, a bond from which it cannot break away without sin: "sicut ligatus corporaliter habet necessitatem consistendi in loco, et aufertur ei potestas ad alium locum divertendi, ita ut non possit aliud sine peccato facere vel omittere, quam illud quod conscientia sibi faciendum vel omittendum dicitur. Quo sensu Rom. XIV. dicitur, omne quod non est ex fide, id est, quod sit contra conscientiam, peccatum est."<sup>3</sup>

There follows naturally a discussion on the obligation of following the dictates of a Conscience which is erroneous. A

1 Ibid n. 5 and 8.

2 Ibid c. iii n. 3.

3 Ibid n. 5.

man, for example, thinks that he is bound to lie in order to save his friend; his Conscience is erroneous. If it were right it would tell him that he must not use evil means for a good end. But if he does not lie he acts against his Conscience and commits sin on that account, and if he does lie he also apparently commits sin; he is in a perplexity and dilemma. It is a problem which is applicable to innumerable cases in practical life, e.g., a doctor who thinks he is bound to save a mother's life by the operation of craniotomy.<sup>1</sup> Practically every author before St. Thomas taught that an erroneous conscience dictating something evil did not bind, but St. Thomas even while a young man commenting on the Sentences taught that Conscience always binds even when dictating evil.<sup>2</sup> It was a celebrated controversy in the middle ages, arising from the different point of view between the theologians and the jurists, who even at St. Thomas' day had begun to invade the realm of Moral Theology,<sup>3</sup> and the differences were accentuated by the rivalry between Paris and Bologna. Sayrus insists repeatedly on the radical difference between a theologian and a jurist, e.g., "*non idem esse culpam gravem apud iuristas quod est culpa mortalis apud theologos, nec idem levem apud illos, quod venialis apud nos. Contingere enim potest ut iuridice fit culpa gravis quae tamen non fit culpa apud Deum . . . e contra potest esse peccatum mortale theologicè, quod tamen iuridice non sit nisi levis aut levissima.*"<sup>4</sup>

It must be noted again that when speaking of Conscience, a reasonable practical judgment is meant; it is not a question of speculation pure and simple, nor of doubts, scruples, hesitations, etc., still less is it a matter of sentiment or feeling. Conscience dictates a practical judgment which is certain and definite, though perhaps contrary to theoretical speculation and also contrary to natural sentiment and feeling. We suppose in this question that a judgment of the practical reason manifested through conscience, which is certain and definite, is none the less erroneous; therefore Sayrus speaks of "*conscientia recta et erronea*," not of "*conscientia vera et falsa*," precisely in order to avoid confusion with speculative truth and falsehood. Truth strictly speaking is the conformity existing between the mind and its object, but a right conscience is one that is in conformity, not necessarily with the object which it is judging, but with the eternal law planted in the

1 Cf *Clavis Regia Lib.* VII c. xii n. 19-23 "*de occisione innocentium.*"

2 II, dist. 39, 3 art. 2; I-IIae 19. a. 5 and 6; *Quodl.* 3 art. 27.

3 Cf *Quodl.* 8 art. 13 "*de duobus prebendis*" and De Smet "*De Matrimonio*" 3 ed. §94 for similar differences between the two Universities re. Matrimony.

4 *Clavis Regia Lib.* X Tract III cap. i. "*De Restitutione.*" n. 10.



mind as a habit (*synderesis*). "Recta conscientia est quae per verum syllogismum, veram sententiam concludit, ut v.g., omne mandatum Dei est servandum sed de dilectione Dei est mandatum; ergo est servandum. Erronea est quae per falsum syllogismum, falsam sententiam concludit, ut si quis ita ratiocinatur: omne illicitum non est faciendum: jurare est illicitum ut patet Matt. V. 'Nolite jurare omnino': ergo jurandum non est. Haec conscientia est erronea, decipitur enim in intelligentia illius 'Nolite jurare omnino.'"<sup>1</sup>

Moreover when speaking of the binding force of Conscience, following St. Thomas he uses the word "obligation" in the strict sense of "ligare," after the manner of a corporal bond,<sup>2</sup> to this extent that Conscience binds in such a fashion that it cannot be departed from without sin; i.e., ligare applies to Conscience in a negative rather than a positive sense. A corporal substance is bound to place and it is against its nature to be outside of place, but from this it does not follow that a corporal substance is always in the right place—a pig in a drawing room for example. Similarly I am bound to act according to my conscience, and to act contrary to it is to commit evil, but from this it does not follow that in acting according to my conscience I am always doing good—lying to save a friend for example. The point is rather subtle but it is fundamental, and we shall have to return to it again to solve an apparent dilemma. It is necessary to mention it here in order to understand the division adopted by Sayrus in dealing with the question of an erroneous conscience. He sets out his doctrine in a twofold thesis or question corresponding to the distinction just emphasised.

## Section 2.

- i. An teneatur quis dictamen conscientiae sequi, ita ut peccet si contra conscientiam erroneam operatur?
- ii. An conscientia erronea obliget ut eam sequamur?

The first part is comparatively simple and is held by all authors following St. Thomas. The scriptural proof is from Romans XIV. where the Apostle is engaged with the question of forbidden food. "Omne quod non est ex fide peccatum est": ubi glossa sic habet: omne quod ad conscientiam pertinent, si aliter fiat peccatum est, quamvis enim fiat quod bonum est, si non esse faciendum credat, vel non sic faciendum peccatum est. Ergo conscientia etiam conscientia erronea obligat." The bearing of this text on the matter is not too

<sup>1</sup> Clavis Regia Lib. I, c. iii. n. 6; and c. iv. n. 1. He is referring to Anabaptists who refuse to take an oath under any circumstances.

<sup>2</sup> Ibid c. iii, n. 5. St. Thomas De Veritate Q. 17 art. 3.



evident unless taken in its context. The Apostle is speaking of those weak in faith, and the danger of scandal to them by reason of eating food legally forbidden, and he adds "scio et confido in Domino Jesu quod nihil commune per ipsum, nisi ei qui existimat quid commune esse." If anyone thinks that it is forbidden to eat this food he is mistaken, nevertheless in eating it he acts against his conscience (fides) and commits sin "qui autem discernit, si manducaverit damnatus est, quia non ex fide. Omne autem quod non est ex fide peccatum est."<sup>1</sup>

The theological arguments which he gives are based on two texts or principles of St. Thomas. "Primum est legi naturali conforme, quae potissimum lucet in duobus principiis primis moralibus scilicet; bonum esse faciendum, malum est vitandum. Haec enim duo principia prima PRACTICA sunt, ut dictum est supra, quibus si quis adversatur, contra Synderesim agit. Qui autem, sive vere sive false, judicat aliquid esse malum, et nihilominus illud prosequi vult, in hoc ipso quantum in se est sectatur malum, faciendo illud quod ratio ut malum apprehendit. Secundum est quod nulla lex obligat, nisi quatenus nobis nota est, et per rationem apprehensa, nec aliqua actio humana est nisi voluntaria . . . et consequenter actus tantum humanus est circa legem aut contra legem, inquantum illa nobis proponitur per rationem. Ideoque si ratio proponit bonum ut malum, et voluntas in illud fertur, quantum in ipsa sita est, ut malum et contra generalem legem naturae, peccat."<sup>2</sup> He is referring here to a famous text of St. Thomas misused in a truncated form by all Probabilists: "Nullus ligatur per preceptum aliquod nisi mediante scientia illius precepti; et ideo ille qui non est capax notitiae praecepto non ligatur; nec aliquis ignorans preceptum Dei ligatur ad preceptum faciendum nisi quatenus tenetur scire preceptum. Si autem non teneatur scire, nec sciat, nullo modo ex precepto ligatur."<sup>3</sup>

To the difficulty or objection that one must not act on an erroneous conscience because such an action would be against the law of God, and the authority of God is greater than the authority of Conscience, he replies by distinguishing that which is against the law of God materially and formally. "Dum enim conscientia dictat mentiendum esse pro vita hominis conservanda, et si in rei veritate sic judicando errat, et proinde materialiter judicat aliquid faciendum esse quod est contra legem Dei, formaliter tamen nihil contra legem Dei in hoc casu faciendum judicat."<sup>4</sup> It is an important distinction; a thing is a sin when Conscience apprehends it formally as against the law of God. So long as a child for example is ignorant, that a certain action which is materially sinful is against the law of God, he cannot commit sin.

1 Clavis Regia Lib. I, c. iv, n. 3.

2 Ibid n. 4.

3 De Veritate q. 17 art. 3.

4 Clavis Regia ibid n. 5.

The second part of the thesis is more intricate and controverted: "An conscientia obliget ut eam sequamur? Hactenus enim solum diximus peccatum esse contra conscientiam erroneam agere, non tamen explicatum est an obligemur secundum eam operari." The problem is apparent at once to any one reading for the first time I-IIae q.19, art. 6 "Utrum voluntas concordans rationi erranti sit bona." In the body of the article we gather that such an action is not evil, and in the answer to the first objection that it is not good. What is it therefore? Indifferent? That would appear to be a Thomistic infidelity of the worst kind. It is a question which is closely connected with a similar one, whether namely a man who, acting on an erroneous conscience, lied to save his friend, was not only excused from sin, but also performed a good and meritorious action. St. Alphonsus answers in the affirmative "Non solum autem qui operatur cum conscientia invincibiliter erronea non peccat, sed etiam probabilius acquirat meritum,"<sup>1</sup> and most Probabilists are of this opinion. Concina answers vehemently in the negative.<sup>2</sup> Among the contemporaries of Sayrus mentioned by Concina as defending the affirmative opinion are Azor (d. 1603), Vasquez (d. 1604) and Sanchez (d. 1610). Both sides, as is so often the case in these controversies claim the authority of St. Thomas as favouring their own particular view. Sayrus treats the matter both under "Conscience" and under "Ignorance," and by comparing the two, and presenting his doctrine as a whole, it will be seen that he achieved particular success in understanding the mind of St. Thomas.

i. A right conscience binds perfectly and absolutely. In acting in accordance with it a man not only avoids sin but does good, because it is a reflection of the law of God. But an erroneous Conscience binds imperfectly and per accidens. "Conscientia erronea non facit obligationem et preceptum absolute . . . notitia vera et conscientia recta superveniens tollit obligationem, non quae reipsa fuit prius, sed quae tantum erat in apprehensione per conscientiam erroneam . . . Ex quibus colligitur conscientiam tam rectam quam erroneam obligare, quamvis diversa ratione. Siquidem conscientia vera est conformis legi Divinae et vera lex est: conscientia vero erronea putatur esse lex Dei, cum tamen non fit. Item conscientia recta simpliciter obligat, erronea vero ex suppositione quia creditur esse praeceptum Dei."<sup>3</sup>

ii. Whether an act performed on an erroneous conscience is sinful or not depends whether the mental error is voluntary

1 S. Alphonsus, Theol. Moralis Lib. I, n. 6.

2 Concina Apparatus II, Lib. II, Diss. i, c. 5. (p. 37)

3 Clavis Regia Lib. I, c. iv. n. 12 and 13.

or involuntary, antecedent or consequent, culpable or inculpable. "Antecedens (sic dicta quia antecedit liberam voluntatis potestatem, neque in illam ullo modo cadit) neque directe aut indirecte voluta est, et tollit voluntarium quia nihil potest esse volitum nisi cognitum, dicique solet invincibilis . . . . Consequens voluntarium non tollit sed voluntaria est directe aut indirecte, quia sicut ipsa culpabilis est, ita etiam ea quae ex eius ignorantia procedunt voluntaria sunt et peccata."<sup>1</sup> If therefore the error is consequent and culpable, the case offers no difficulty, for if a person's conscience is erroneous either indirectly through lack of prudence or diligence, or directly because he has deliberately framed it in that way, it is clear that the action resulting is imputable. But it must be noticed that Sayrus limits the possibility of invincible ignorance more than some authors for he does not admit the possibility of invincible ignorance of the natural law.<sup>2</sup> And it is on this point that the difficulty arises in the case of error which is apparently antecedent and involuntary, for if a man is ignorant of something of which he has no business to be ignorant, e.g., the precepts of the natural law, Sayrus following St. Thomas teaches that such ignorance in itself is sinful, even though no evil action results;<sup>3</sup> the error is then voluntary. "Quod si urgeas, ergo homo iste erit perplexus in utramque partem quia quicquid faciat, peccatum non evadit, responditur culpa sua posse esse perplexum, quando scilicet ignorat id quod scire potest et tenetur: non est tamen simpliciter perplexus, quia potest et tenetur in hoc eventu conscientiam illam deponere, et scientiam contrariam habere, quo facto ab illa perplexitate liberatur."<sup>4</sup> "Neque enim quaecunque ignorantia tollit voluntarium, sed illa solum quae est invincibilis, cum quis scilicet veritatem scire non potuit et modo morali et humano."<sup>5</sup>

iii. "Bonum est ex integra causa, malum vero ex quocunque defectu particulari, unde ad malum satis est quod voluntas in aliquid feratur quod apprehenditur ut malum; vel quod reipsa malum sit; ad hoc vero ut voluntas bona sit duo requiruntur. Unum est quod objectum apprehenditur ut bonum et nullo modo malum; alterum est ut etiam secundum naturam suam sit bonum . . . . Quodocunque aliquid judicatur esse malum, quomodocunque ita judicetur, sive ex ignorantia vincibili sive etiam ex invincibili, jam homo ille voluntarie et quantum in se est fertur in malum, atque ita hoc ipso actio illa mala est: voluntarium enim est a principio intrinseco cognoscente singula. Quando autem aliquid apprehenditur ut bonum quod revera malum est, ignorantia

1 Clav. Regia Lib. II, c. ii, n. 19.      2 Ibid c. ix, n. 17 seq.

3 Ibid n. 31. I-IIae 76, art. 1 "talīs nō peccat propter ignorantism sed peccat ignorans."      4 Clav. Reg. Lib. I, c. iv. n. 10.      5 Ibid n. 27.



tamen vincibili, tunc adhuc etiam manet ratio voluntarii circa malum, nam ob ignorantiam vincibilem indirecte vult malum, quod ipsum, satis est, ut actio censeatur simpliciter mala."<sup>1</sup>

iv. Hence on the above three arguments the solution of the difficulty rests. "Conscientia erronea ex ignorantia invincibili ligat et obligat non quidem ut quis positive eam sequatur, sed saltem ut non faciat contrarium eius . . . Habet enim in tali eventu duo dictamina in intellectu. Unum est bonum esse mentiri pro conservanda vita propria, quod dictamen affirmativum, cum neque bonum sit, neque sufficienter proponat bonum, consequenter Conscientia erronea non obligat positive ad sui observantiam. Alterum est non mentiri esse malum, quae conscientia licet non excusat a peccato si mentiatur, obligat tamen ne fiat oppositum. Quoad conscientiam erroneam ex ignorantia inculpabili, dicendum est eam non solum obligare ne quis faciat contrarium sed etiam simpliciter obligare ad positivam sui observantiam . . . Nec tamen ex hoc sequitur obligari hominem ad faciendum peccatum, quia quando ignorantia est inculpabilis, id quod alias peccatum esset, a peccato excusatur, cum ignorantia haec deponi nequeat, aut non debet; cuius contrarium diximus in conscientia erronea culpabiliter, ubi homo conscientiam illam deponere potest et tenetur, et proinde illi ad culpam imputatur si secundum illam operatur."<sup>2</sup>

Hence the difficulty concerning a perplexed conscience is resolved. Is it voluntary or involuntary? If it is voluntary, then indeed the person is in the most terrible state of conscience it is possible to be in. If it is involuntary, then following its dictates no sin results. Is it therefore an indifferent act? No, because being involuntary it is not properly speaking a human act at all. "Concordans cum ratione errante invincibiliter excusatur a peccato, eo quod ignorantia invincibilis tollit omnem voluntarii rationem circa malum, et peccatum esse non potest quod nullo modo est volitum."

There remains now to consider the part played by Conscience, in cases of doubt and uncertainty. It is a question which has assumed enormous importance in Moral Theology since the beginning of the XVII. century, so that a theologian is classified according to his teaching on this subject. It is a subject moreover abounding in difficulties and pitfalls. In the following chapter the position of Sayrus will be indicated as accurately as possible, by setting out his teaching firstly on the doubtful Conscience and secondly on the probable Conscience, concluding with an estimate of his doctrine.

1 Clav. Regia Lib. I, c. iv, n. 27.

2 Clav. Reg. I. c. n. 11.

## CHAPTER VII.

### THE PROBABILISM OF SAYRUS.

Section 1. The doubtful Conscience. Unlawful to act in doubt. *Pars tutior est sequenda.*

Section 2. The probable Conscience. Probability. External and internal. Reflex principles not applied. Three propositions stating his teaching.

Section 3. Summary of his position. Disagreement of modern authors. No universal principle for all cases. Doubt distinct from probability. The practical point of view. Absence of juristic principles. An attempted harmony of the older system with Medina.

#### Section 1.

THROUGHOUT his treatise Sayrus follows the accepted terminology and speaks of a "doubtful conscience;" it would be more accurate to speak of forming a dictate of Conscience when a doubt exists in the mind about the liceity of a particular action, since the act of Conscience is a judgment and doubt is a suspension of judgment, but from the previous chapter his doctrine is quite evident, and he uses the term to avoid a circumlocution each time. What is more important is the absolute and clear-cut distinction he maintains between a "doubtful" and a "probable" Conscience. Reversing the usual order he deals first with the probable conscience from Chap. V.—XII. of the *Clavis Regia* and then in Chap. XIII. with the doubtful Conscience. Some modern authors do not distinguish the two things sufficiently. If I am in doubt about the liceity of an action and succeed in resolving that doubt either by reflex principles or by some other method, well and good; but if the doubt remains in spite of all my efforts, I cannot act with a doubtful conscience but must follow the safe course. The prominent position taken by the principle "*lex dubia non obligat*" in the system of Probabilism is responsible for this confusion. For Sayrus the two points are distinct and he insists on the distinction repeatedly: "*Quamvis nonnulli eius sint sententiae, ut idem plane putent esse conscientiam dubiam et conscientiam seu opinionem probabilem . . . tamen sicut opinio et dubiam inter se differunt, ita etiam conscientia dubia et probabilis inter se distinguuntur.*"<sup>1</sup> "*qui dubitat, nec vere assensum habet nec dissensum sed omnino dubius manet, and consequenter conscientia dubia ea est, et censetur, quando rationes tales sunt quae pro neutra parte contradictionis assensum vel dissensum generant, sed intellectus ad utramque partem anceps manet, eo maior conventientia extremorum in uno quam in alia parte ei non ostenditur.*"<sup>2</sup>

<sup>1</sup> *Clavis Regia* Lib. I, c. 5 n. 1.

<sup>2</sup> *Ibid* and c. 13 n. 1; *Decisiones* Lib. V. tit. 22, dec. 13,

It is apparent that in speaking of a doubtful conscience, Sayrus in common with most of the older authors, speaks of a doubt strictly so called—when no assent of any kind is given for or against. If assent is given even with hesitation, then though the discussion is not on the plane of certitude, yet neither is it on the plane of doubt, but it is midway between the two—it is an opinion, a probability, and is treated by Sayrus separately.

But speaking now of a doubtful conscience strictly so called, he stresses a point already mentioned in the previous chapter, namely the distinction between a speculative and a practical doubt, a distinction which is fundamental in his teaching regarding Conscience, doubt and probability. "*Dubium speculativum est dubium in communi . . . per rationes magis universales et speculativas . . . secundum se et absolute consideratum . . . quia intellectus speculativus nihil judicat de operando quantum ad conscientiam attinet. Dubium practicum est dubium in particulari, quando quis in particulari dubitat hic et nunc, an operatio quam facit sit peccatum necne . . . secundum omnes circumstantias hic et nunc occurrentes, adeo ut etiam quod aliquando propter unam causam liceat, alio tempore propter aliam causam non licebit . . . quia ratio practica est qua humanae actiones dirigantur, et qua conscientia dicitur dubia (conscientia enim non significat quodcumque dictamen rationis, aut quamcumque sententiam, sed applicationem scientiae ad opus hic et nunc exercendum vel non exercendum).*"<sup>1</sup>

On these premises two chief points are treated: i. Is it lawful to perform an action with a doubtful conscience as to whether it is sinful or not? ii. What is to be done in such a case.

i. It is always unlawful to perform an action with a practically doubtful conscience, and the sin is mortal or venial according as one doubts whether the action is mortal or venial; because by acting in this manner one is exposed to the danger of committing sin—"qui amat periculum peribit in illo" (Eccles. 3). Bonum ex integra causa malum ex quocumque defectu. "Qui dubitat an aliqua operatio sit bona vel non, non habet cognitionem liberam et integram boni; qui e contrario habet aliquam cognitionem mali, et ad malitiam sufficit quilibet particularis defectus, faciendo illud, de quo in particulari dubitat an sibi liceat necne, deficit a rectitudine operandi, et consequenter actus ille malus erit, mortaliter vel venialiter pro ratione dubietatis quam habet."<sup>2</sup> Yet it is possible and frequently happens that a speculative doubt exists together with a practical certainty, so that a person might have a speculative doubt about the liceity of an action in general, but

1 *Clavis Regia Lib. I, ch. 13, n. 1 and 2.*    2 *Ibid n. 3.*



in this particular case here and now form a judgment that it is licit. It is a capital point in the teaching of Sayrus, not admitted by his contemporaries Corduba and Vasquez: "*ut enim quis dicatur non operari tenerarie sed prudenter, sufficit quod consideratis omnibus circumstantiis secundum rectam rationem judicet hic et nunc licitum esse hic et nunc hoc vel illud agere, quamvis in universali de re aliqua dubium habuerit.*"<sup>1</sup> There is no attempt here to introduce reflex principles "*lex dubia non obligat*" or "*melior est conditio possidentis,*" i.e., an attempt to solve a speculative doubt in a manner applicable to all cases, but each case of the many he proceeds to consider is decided on its own merits according to prudence and right reason. It is the way St. Thomas decided the famous question "*de duobus prebendis*": it is licit for a cleric to hold several benefices if in his particular case he has a right intention and fulfils the duties sufficiently.<sup>2</sup>

ii. What is to be done, therefore, in a particular case of practical doubt? Two sets of circumstances have to be considered. The first is the real case of perplexity, when, whatever course is pursued, there is a doubt whether the action is sinful or not, e.g., "*si mulier aliqua quae non certa de morte prioris mariti dubitare incipiat an sit peccatum reddere debitum petente marito secundo . . . nam si reddat, et vere prior maritus vivat, luxuriam committit, et si non reddat et prior maritus non vivat, injustitiam committit.*" In this and similar cases of doubt on both sides his teaching is clear and explicit, provided we bear in mind that he is speaking of a doubt strictly so called, and not of the case where sufficient reasons incline the mind to give assent in one direction. If this distinction is not remembered then the doctrine given in this section will apparently flatly contradict the doctrine of the section dealing with probabilities, and this is the reason perhaps which has led Ter Haar to number Sayrus among the authors who are ambiguous and confused in dealing with this matter. Therefore in a case where there is doubt on both sides: "*quando est dubium pro utraque parte, et non est multo maior probabilitas pro una parte quam pro altera, tunc partem tutiorem sequi tenetur . . . si neutra tuta fuerit sequenda est pars minus periculosa . . . si ea pars quae est minus tuta, sit multo probabilior altera, non est necesse sequi partem tutiorem.*"<sup>3</sup> A number of cases are solved in this sense. Thus in the case cited above "*non licet conjugii petere debitum manente tali dubio . . . et quod dicimus conjugem durante tali dubio teneri ad reddendum dubium alteri petenti bona fide, eo sensu accipi debet scilicet si non alias debeat explicare huiusmodi dubium, ut ille etiam absteineat a petendo.*"<sup>4</sup>

1 Ibid n. 2.      2 Quodl. 8 art. 13 and 9 a. 15.

3 Clavis Regia Lib. I, c. 13, n. 9.      4 Ibid n. 8.

The second set of circumstances with regard to a doubt is simpler, namely the doubt as to the sinfulness of an action exists only on one side, on the other side there is not doubt but certainty that no sin will be committed in acting, e.g. doubt whether to-day is a holiday of obligation or a fast day, when by not hearing Mass or not fasting there is danger of committing sin, but certainly of committing no sin by following the opposite course. "*Quando pro una parte certum est et pro altera parte dubium, peccatum est sequi id quod est dubium, quia tunc se exponit periculo peccandi ut v.g.; scit Petrus quod licite jejunare potest, dubitat vero an non jejunando peccat, tenetur jejunare.*"<sup>1</sup>

In all cases of doubt the safe course must be followed, if after careful and prudent examination the doubt cannot be resolved, either by personal enquiry or by the judgment of good prudent and learned confessors. We are touching on the question of probabilities internal and external, to be considered in the following section, but Sayrus mentions a further method of resolving doubts which very few manuals think it worth while to record: "*omni affectu humano secluso, diligenti studio et oratione ad Deum (Qui omnis veritatis et lucis fons et auctor est) recurrendum est: quibus mediis adhibitis, unam partem quae sibi melior patet eligendo, tutus in conscientia erit, etiam si forte a parte rei non ita vera et bona sit.*"<sup>2</sup> Right reason and prudence must be used in difficult matters of doubtful conscience, but for a Christian man natural prudence is strengthened and elevated by that "counsel" which is a gift of the Holy Ghost.

The above teaching on resolving a doubtful conscience is found in the *Clavis Regia* after the long discussion on Probabilities. I have reversed the order to expose more clearly the mind of the author on this involved and intricate matter.

## Section 2.

The discussion on probability is one of the most interesting parts of Sayrus' work. The *Clavis Regia* of which the treatise on Conscience forms a considerable part was written about twenty years after the *Commentary of Medina* on the I-IIae of St. Thomas, the first explicit attempt to propound the doctrine of Probabilism; so that sufficient time had elapsed for the doctrine to take root, which it quickly did; at the same time it was sufficiently new for a careful author like Sayrus to view it with a critical eye, considering his attachment and reliance on the older authors and especially St. Thomas. In the first place the notion that a proposition could be called

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<sup>1</sup> Ibid n. 8.      <sup>2</sup> Ibid n. 7, c. VI n. 3.

probable and its opposite also called probable worried him extremely; his idea of "probable" is the Aristotelian and Thomistic idea, namely involving "assent," imperfect it is true and with a certain amount of fear that the opposite might be true, but none the less "assent," and therefore carefully to be distinguished from "doubt" which is the suspension of assent. "Opinio seu conscientia probabilis semper est cum assensu alterius partis, quamvis cum aliqua etiam formidine . . . et in hoc consistit quod rationes pro ea adductae, maiorem convenientiam ostendunt extremorum inter se in una parte contradictionis quam in alia," "opinio aliqua dicitur probabilis, quia est secundum rectam rationem, et quam sequi possumus sine reprehensione, juxta doctrinam Aristot. lib. i. Topic. cap. 1, et lib. i. Ethic. cap. 4, ubi ait opinionem probabilem illam esse, quam viri sapientes, et in ea arte periti asserunt, et optima argumenta confirmant."<sup>1</sup> This being so, if in a disputed case one opinion seems to me to be the probable solution (in the Aristotelian not in the modern sense) and therefore urges acceptance and consent, how can the opposite be also probable and also urge acceptance and consent? It is absurd to speak of the mind assenting at the same time to two contradictory propositions. If in a given case the probable solution seems to be that a man is bound to restitution, how can assent be given to the opposite proposition which claims to be probable that he is not bound to restitution?

He meets this evident difficulty by asserting that the assent is given not to two contradictory propositions, but to two distinct and separate propositions: (a) "from principles inherent in the matter of distributive justice, a man who acts in such and such a way is bound to restitution," (b) "from the fact that many learned and eminent men have decided in the opposite sense, their opinion must be said to be reasonable." The mind in the first case assents to the proposition that restitution must be made, in the second case it assents to another proposition that the united opinion of learned men must be reasonable. It is a solution of a knotty point which is easily open to attack, but it must at least be admitted that it is an honest attempt to harmonise the new notion of "probable" with the Aristotelian notion. "Potest quis habere assensum unius partis probabilem primo modo, hoc est per principia intrinseca, et etiam assensum alterius partis oppositae probabilem secundo modo, per principia extrinseca . . . Nec tamen in illius intellectu sunt contrarii assensus, quia non sunt ex eisdem principiis, nec de eadem prorsus propositione. Sit aliquis qui opinatur et conscientiam hanc probabilem habet, quod eligens minus dignum omisso digniore tenetur restituere, idque deducit

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1 Clavis Regia Lib I. cap. v. n. 1. and cap. vi. n. 4.



ex propriis et intrinsecis principiis restitutionis et injustitiae . . . talis, inquam assensum habet huius propositionis: "Qui praetermittit digniorem in electione tenetur ad restitutionem." Sed per principia extrinseca, quia scilicet videt plures doctores opinari contrarium, habet assensum huius propositionis probabilis: "rationabilis est opinio quae asserit non teneri ad restitutionem," non tamen habet assensum huius propositionis qui praetermittit digniorem non tenetur ei restituere," sic enim haberet duos assensus contradictorios."<sup>1</sup> He therefore proposes the question whether it is licit to act against one's own opinion, or what is the same thing, against a more probable opinion, for as he tritely but very truly remarks "unicuique sua opinio probabilior videtur."

Most emphatically it is not a question of acting against one's own Conscience; that it is always sinful to do so is clear from the previous chapter, and he refers to it again; but the question is whether in forming a particular judgment of Conscience here and now in a practical case, it is licit to perform an action, which speculatively and abstractly considered is probably judged to be sinful. "An manente opinioni probabile propria in communi et in universali qua existimat aliquid esse peccatum, possit aliunde rectum iudicium conscientiae, quod liceat ei hic et nunc illud licite facere."<sup>2</sup> Thus the two terms which offer a contradictory solution, are not two practical judgments: this thing *hic et nunc* is sinful "and "this thing *hic et nunc* is not sinful"—that would be an absurdity; but one is a speculative proposition and the other a practical judgment. It seems to me that the weak point of some expositions of Probabilism is that this point is overlooked, and the books appear at least to discuss the possibility of two contradictory propositions regarding the same practical concrete case both being "probable." It is the evil result of the excessive use of casuistry—discussing the innumerable cases *ad nauseam* instead of stressing the principles on which their solution rests. Therefore, although Sayrus, after the fashion of his time adduces and solves a large number of cases,<sup>3</sup> yet he does not lay down a universal system applicable to them all, but approaches each on its own merits, and in this he is unique and departs from the method of most of his contemporaries.

After carefully outlining the teaching of the Summists, St. Antoninus, Cajetan and Bartholomew Medina he says "Haec sunt quae ab auctoribus in hac materia sic in universum

1 Ibid, cap. V. n. 2.

2 The distinction between speculative and practical is insisted on repeatedly, c. vi. n. 1.; xi. n. 16; xiii. n. 1., etc., in regard both to doubt and probability, as well as Conscience.

3 Cf. ch. XI. infra.

asseruntur; quia vero in moralibus res in partīculari examinandae sunt, et dubium esse poterit non solum de doctis et peritis, sed etiam de ignaris et iis qui aliorum consilia sequuntur, de utrisque in sequentibus dicemus, ubi etiam de diversis personarum generibus, ac rebus diversis et distinctis, prout materiae moralis ratio expostulat, agemus."<sup>1</sup> In the following chapters he does not labour to prove as a universal proposition that one may relinquish a more probable opinion and follow a less probable one, as all the modern manuals fruitlessly attempt to do, but he discusses what opinion a learned person, an ignorant person, a confessor, etc., may follow according to individual circumstances.

In all these discussions, the point for Sayrus—and it is in fact the real point at issue in all the systems—is the conflict between one's own opinion arrived at on intrinsic grounds, and the opinion of others which calls for consideration by reason of their authority and learning, and therefore has a right to be called probable. The next point for us to determine then is the idea of Sayrus regarding probability arising from the judgment of external authority. In the first place he never uses what may be called the "mathematical" argument, which takes such a prominent place in some authors,<sup>2</sup> but he endorses the judgment of Navarrus: "*opinio aliqua non est judicanda magis communis quod eam plures numero doctores sequuntur, maxime quando eam plures sequuntur turmatim, tanquam oves aliae alias, quae praecedunt sine iudicio sequentes, et velut aves quae unam volantem, aliae aliam sequuntur (ut contingit in eist quae sunt eiusdem factionis) . . . ex quibus infert non esse admodum laudandos quosdam recentiores qui diligentiores sunt in computando numerum Doctorum, quam in rationibus et argumentis aliorum examinadis et discutiendis.*"<sup>3</sup> Numbers therefore as such are of no weight especially when they belong to the same faction and follow each other from a sense of corporate loyalty; nor is the fact that they have attained to academic degrees an argument for the worth of their opinions "*neque satis est quod in*

1 *Clavis Regia*, Lib. I, c. v., n. 14.

2 Here is an example of a mathematical argument from Gury-Ballerini Bk. I. § 414. "*Si numerantur tredecim auctores quos pro sua sententia allegat, iisque addantur alii septem apud Sanchez, quindecim alii apud Diana, et alii sexdecim apud Salmanticenses, etc., etc., . . . Respondeo: Septem apud Sanchez transcripti sunt ex Salmanticensibus, ergo ne bis computentur demi debent; quindecim apud Diana sunt contra S. Alphonsum, quatuor tamen pro ea allegantur, sed cum isti repetiti inveniantur a Salmanticensibus computari non possunt . . . Sanchez pro eadem allegaverat alios septemdecim; Diana vero alios novem hisce addiderat, adeo ut jam habeamus triginta et unum.*"

3 *Clavis Regia*, Lib. I, c. v., n. 10.

Theologia vel Jure Canonico graduatus fit, cum aliquando accidit nonnullos etiam ex his esse imperitos."<sup>1</sup> But this is the criterion of the worth of external probability: "quinam et cuius auctoritatis sint, qui eam defendunt, an docti sint, prudentes, timoratae conscientiae, et in illa materia multum versati," "optimun consilium est magis exercitatos in tali materia consulere, cum nonnunquam plus in rebus moralibus valeat praxis quam subtilis et ingeniosa rerum examinatio."<sup>2</sup> It is the Aristotelian notion of probability, and moreover an estimate of an external opinion in moral matters which is born out by the "sensus communis" of good Catholic people all the world over, who in cases of uncertainty and difficulty with unerring instinct approach a Confessor who is experienced, prudent and conscientious, "et in illa materia versatus": a just man in matters of justice, a chaste man in matters of chastity. And this is the reason the Church teaches we may safely follow the opinions of St. Alphonsus, not merely because he was a learned theologian, but because he was an experienced confessor and a Saint.<sup>3</sup>

A further point must be considered in deciding on the external probability of an opinion, namely the arguments on which the opinion rests; and in this matter our author's judgment differs according to the individual person in question, since moral questions must be treated in the concrete, not in the abstract. If it is a question of an ignorant and unlearned person following a less safe course on a probable external opinion, then he is much more strict regarding the "respectability" of the external authority, and requires a greater degree of prudence and caution; there must be assent even to a probability, and he is afraid lest an unlearned person following a less safe course, will either act with a doubtful conscience, or will be guilty of rashness in accepting an opinion, the reasons for which he is unable to appreciate. So while allowing that an ignorant person or an unlearned confessor may act on a probability, (to the same extent as others—vide infra), yet he safeguards and limits it in the following way: "Confessores, qui minus exercitati sunt non possunt semper tuta conscientia quamcunque probabilem opinionem sequi: forsán enim legant in uno vel altero doctore opinionem, quae poterit eis probabilis videri, quia ab illo doctore asseritur, quae tamen in scholis et apud peritos jam probabilis non sit, sed falsa, ut in multis experientia testatur. Quapropter qui minus callent tenentur in conscientia viros peritos, ac in illa materia exercitatos, et quos timoratae conscientiae esse norunt, consulere, ut ab eis discant quae opinio sit probabilior, quae probab-

<sup>1</sup> Ibid c. vi., n. 2.

<sup>2</sup> Ibid and c. viii., n. 4.

<sup>3</sup> Resp. S. Penit. July 5, 1831.



ilis, et quae tuta conscientia tennenda et sequenda sit : et qui aliter agunt, fidentes suis ingeniis et summulis non sunt tuti in conscientia, nec prudenter et rationabiliter in rebus magni momenti operare censentur<sup>1</sup>." But if it is a question of a learned and erudite person, then before he can licitly form a judgment that an opinion held by others is probable, he must himself weigh the arguments adduced: "Diligenter expendenda sunt argumenta utriusque opinionis, et consideranda tam ea quae in contrarium obijciuntur, quam incommoda quae pro utraque parte asseruntur. His enim omnibus bene ponderatis, facile cognosci potest quae securitas habetur. Nam quae a multis viris gravibus et doctis proponitur et veris et solidis argumentis niitur, ac optimis rationibus confirmatur, et per quas argumenta opposita facile solvuntur, etiamsi opposita plures et graves auctores, et optima etiam argumenta habeat tanquam probabilis et segura in praxi censenda est."<sup>2</sup>

What use does he make of juristic reflex principles? These play a large part in all the systems<sup>3</sup> but by Sayrus they are not even mentioned in the chapters which deal with Probabilities. He makes use of them indeed, for he was a jurist of considerable repute,<sup>4</sup> but only in matters of justice, e.g., in various questions connected with Judges and Advocates<sup>5</sup>: "in obscuris favendum est reo" "potior est conditio possidentis" "in obscuris minimum est sequendum," etc. In this respect he retains the older tradition of the Summists, who even at the time of St. Thomas began to teach Moral Theology in a juridical manner, yet never applied the juristic principles of the external forum to the internal forum of Conscience. The theological aspect and the juridical aspect are always kept clearly distinct "non idem esse culpam gravem apud juristas quod est culpa mortalis apud theologos . . . contingere enim potest ut juridice fit culpa gravis quae tamen non fit culpa apud Deum . . . e contra potest esse peccatum mortale theologice, quod tamen juridice non sit nisi levis."<sup>6</sup>

One of these principles calls for special mention, "**Lex dubia non obligat**," since it has caused the greatest controversies since the rise of Probabilism. It is a canonical interpretation of Regula 30 in VI. Decret. Boniface VIII. "in obscuris minimum est sequendum,"<sup>7</sup> and being applied by the various systems to the internal forum of Conscience, has assumed an enormous importance in their regard. Probabilists

<sup>1</sup> Clavis Regia Lib. I. c. viii. n. 4.      <sup>2</sup> Ibid c. viii. n. 2.

<sup>3</sup> Cf. supra, chap. V.      <sup>4</sup> "Instar trium jurisconsultorum" Gobat. Vindiciae n. 476. Cf. ch. XI. infra, § 3..

<sup>5</sup> Clavis Regia, Lib. I, ch. XI.      <sup>6</sup> Ibid Lib. X, Tract iii., cap. i.

<sup>7</sup> Ferraris Bibliotheca, voce "Regulae Juris."

apply it to all cases except those which come under some condemned proposition, e.g., Sacraments. Probabiliorists apply it only when the opinion in favour of liberty is more probable. As a juristic principle in foro externo it has an acknowledged and a universal value, and is in fact incorporated in the Codex "*leges etiam irritantes et inhabilitantes in dubio juris non urgent.*"<sup>1</sup> The trouble arises from extending its application not only to positive law but to all moral obligations even of the natural law, and from extending the canonical rules regarding the promulgation of positive law to the law of conscience, so that whenever there is a probable opinion that a particular action is lawful there is no certain moral obligation in its regard. But the two things are or should be distinct: positive law intended for the community at large must be so promulgated as to be clearly known by all; the law of Conscience intended for the guidance of the individual, his friend not his enemy, binds precisely in the measure in which it is appreciated by the individual Conscience, and no canonical rules of interpretation can be applied to it.

And these are the lines on which Sayrus treats the subject. The canonical rule "*leges in dubio juris non urgent*" receives a full and adequate treatment in Book III. of the *Clavis Regia* where he deals *ex professo* with laws in a canonical manner;<sup>2</sup> similarly the cases appended to the discussion on Conscience, are canonical and treated as such very often with the express proviso "*hæc materia potius ad legistas pertinet.*"<sup>3</sup> For the rest, troubles and grave inconveniences arising from the observation of doubtful laws by the individual, are solved not by principles applicable to them all, but by the accepted principle of "*Epicheia*" applicable to the circumstances of each individual case.<sup>4</sup> But dealing professedly with probable opinions in Book I. I find no trace of the principle "*lex dubia non obligat*" as the universal remedy in solving matters of conscience. In fact this reflex principle was not fully developed by Probabilists until about forty years later. In any case, it is entirely foreign to Sayrus' treatment of probabilities to determine what is a probability and what is not, by any universal reflex principle applicable to the internal forum of conscience, but he treats each case or each set of circumstances individually and separately, as we have already pointed out.

Bearing these points in mind the position of Sayrus with regard to Probabilism can be determined in the following series of propositions:

1 Codex can. 15.

2 Cf. cap. v. n. 3-6; cap. viii. n. 7.

3 e.g. Lib. I. cap. xiii. n. 22 "*de filio spurio.*"

4 Cf. *Clavis Regia* Lib. III. c. 10, n. 1.; Lib. XII. c. 9. n. 5.

1. "Quoties opinio quae dicit aliquid non esse peccatum, vel est communis apud doctores, vel etiamsi non ita communis sit ac opposita opinio, nihilominus tamen iudicio doctorum ac in ea arte peritorum non iudicatur improbabilis, potest quicumque doctor eam sequi in suis actionibus contra propriam opinionem."<sup>1</sup> To understand this proposition note that "Opinio propria," in Sayrus' sense, is the opinion which seems probable on internal grounds, as distinct from the probability arising from external authority; and it most emphatically does not mean a practical judgment of conscience in this particular case, but a speculatively probable opinion: "non est quaestio an liceat agere contra dictamen propriae conscientiae in particulari deductum ex opinione propria, hoc enim peccatum est."<sup>2</sup> In this proposition there is no question whether "opinio" is "probabilior," but the two terms are simply "opinio propria" and "opinio aliorum doctorum," and the point is stressed because of the danger of apparently acting against one's own conscience. It is not imprudent to follow the counsel of learned men against one's own opinion, therefore neither is it imprudent to follow the judgment of learned men against one's own judgment.

2. "Quando pars minus tuta aliquando videtur probabilior, et ratione aut alia via ad eam tenendam valde convictus est, etiamsi in oppositum sunt reliqui doctores, non tamen omnes, et ipse etiam sit vir doctus, et peritus in ea arte qui rationes aliorum ponderare sciat, post adhibitam debitam diligentiam, propriam opinionem in parte minus tuta sequi poterit."<sup>3</sup> The position here is that one's own opinion appears on intrinsic grounds to be more probable, but the extrinsic weight of probability is against it, and the essential condition is that in this case the less safe opinion can be followed only by a man who is competent to form a judgment on the arguments; to unlearned men he does not concede this liberty, because "unicuique sua opinio videtur probabilior" as already pointed out above.

3. "Sicut quis potest contra opinionem propriam operari, ita etiam interrogatus consulere potest aliis contra propriam opinionem, vel dicendo contrariam opinionem esse probabilem et secundum eam posse interrogantem operari, vel dicendo multos doctores ita opinari."<sup>4</sup> This is a logical consequence from the preceding doctrine, but though it is lawful to act in this manner it is not expedient: "ne quis varius in suis consiliis deprehendatur, melius est semper consilium secundum propriam opinionem et sententiam praebere." He is touching here on what is a most important and practical point, viz., the relations between the confessor and penitent in the Con-

1 *Clavis Regia* Lib I. cap. vi. n. 4, 10.

2 *Ibid* cap. v. n. 4.

3 *Ibid* cap. v. n. 8.

4 *Ibid* n. 11.



fessional, which is considered in all its bearings in Chapter IX.; it is one thing to give counsel and advice, it is another thing and one attended with far more serious consequences, to refuse absolution in the Confessional. This matter of conflict between the confessor's opinion and his penitent's is really the Gordian knot in this already tangled question, for in practice a confessor with strict views, a probabiliorist for example, is often obliged to act contrary to his own persuasions.<sup>1</sup>

S. Antoninus and most of the Summists for two centuries previous to Sayrus, drew a distinction between the confessor who was obliged to hear confessions, and the extraordinary, e.g., a mendicant friar, who was not bound; the first should absolve the penitent since he had a right to absolution, the second should not unless the penitent conformed his opinion to the confessor's.<sup>2</sup> Others with Medina and Th. Sanchez distinguished between learned and ignorant penitents; the first should be absolved, the second not, because they are considered incompetent to form a judgment.<sup>3</sup>

Sayrus following Dominic Soto and Navarrus rejects both these distinctions: "*Confessarium quemcumque absolvere posse poenitentem sequentem opinionem probabilem relictâ sua opinione probabiliori.*" The first distinction is not to the point, since a confessor hearing a confession implicitly undertakes to absolve the penitent if he is rightly disposed; the second distinction only holds good on the supposition that the less learned penitent is in a state of doubtful conscience, and if this is the case he cannot be absolved. It is the confessor's business first and above all to look to the Conscience of the penitent; if the penitent is persuaded of the liceity of his opinion, and it is a "probable" opinion in the sense already explained, the confessor should counsel him according to his personal and stricter view, but he cannot refuse absolution if the penitent refuses to follow his advice. It is an entirely different matter if the penitent has a doubtful conscience about the liceity of the course he proposes to follow;<sup>4</sup> quite a different matter also if the penitent's opinion is, in the confessor's judgment, false, or rashly formed, i.e., not conforming to the requirements of solid probability; in both cases the penitent cannot be absolved because he is not rightly disposed. And I think it can be said that this solution is the common opinion of theologians nowadays and the universal practice of confessors; it is taught by St. Alphonsus who quotes Sayrus among others with approval.<sup>5</sup>

1 Billuart De Consc. diss. 6 art. 4 however is logical "debet confessarius illi denegare absolutionem tanquam indisposito."

2 St. Antonin I tit iii. c. 10 and others cited by Sayrus c. ix, n. 5.

3 Sanchez, Decal. I. c. ix. n. 29-31. 4 Clavis Regia Lib. I. c. 9. Lea not understanding the difference between a doubt and a probability is confused on this point. Auricular Confession II. p. 299.

5 Theol. Moral. Lib. vi. n. 604.

## Section 3.

From what has been said, the characteristics of Sayrus' Moral System may be determined. Among the very few modern writers on the subject who are aware of his existence at all, Döllinger-Reusch includes him in a list with John Sanchez, Caramuel, Leander de S. Sacramento and Graffius; each of these authors with the exception of Graffius has an unenviable reputation for laxity. But the fact that Sayrus is called a Dominican in the one place where he is mentioned, is sufficient to show that this usually erudite author has the merest superficial acquaintance with Sayrus, and has no first-hand knowledge of his works.<sup>1</sup> Schmitt in one or two passing references considers him a probabilist.<sup>2</sup> Ter Haar includes him among the vague and ambiguous probabilists who propounded propositions afterwards condemned; that Ter Haar is wrong in this judgment will be shown in the following chapter.<sup>3</sup> Lea speaks of him in passing as a probabilist, but absolves him from any suspicion of laxity.<sup>4</sup> Bouquillon, an exact and careful writer, refers more than once to Sayrus in very flattering phrases, but is content to include him among theologians of the XVI. century who, whether under the form of Probabilism, Probabiliorism or Equiprobabilism, endeavoured to solve doubt by means of reflex principles.<sup>5</sup> With the exception of Tar Haar, who quotes part of a text dealing with probability in the Sacraments, none of these authors give any extract from his works.

This variety of judgment, or rather lack of judgment, arises from what is the most notable characteristic of Sayrus' teaching on this matter. Though capable of extreme precision of language, when the matter calls for precision, on this subject he makes no attempt to lay down any precise quasi-mathematical formula which can be applied to all moral problems indifferently. You will search in vain for anything corresponding to Medina's famous text, "*si est opinio probabilis, licitum est eam sequi licet opposita sit probabilior.*" The supreme object which he has in view is the need of souls, and his judgment therefore varies in particular cases. In arriving at a decision in particular cases the ultimate guide is prudence, and prudence assisted by the supernatural guidance obtained by earnest prayer to God.<sup>6</sup> To apply these ideas to any individual problem with all its attending circumstances

1 Döllinger-Reusch, *op. cit.* I., p. 31.

2 Schmitt, *op. cit.*, pp. 108, 161.

3 Ter Haar "*De Systemate antiq. Probab.*" p. 91.

4 Lea *op. cit.* II., pp. 336, 319, 367.

5 Bouquillon, *op. cit.*, p. 584.

6 *Clav. Regia.*, Lib. I., c. vi., n. 1; c. viii., n. 4; c. xi., n. 13; c. xi., n. 16; c. vi., n. 3.

necessarily excludes precision of statement. He accepts the teaching of Medina but limits it and hems it round with so many reservations and limitations, that subsequent ardent probabilists no doubt considered him vague and unsatisfactory; to my mind this is one of the reasons why he has fallen into comparative oblivion.

A further characteristic is the clear cut distinction he maintains throughout between doubt and probability. There has always been a curious confusion between these two things, observable not only in modern writers—Lea, for example, consistently speaks of the two indifferently—but also in the contemporaries of Sayrus.<sup>1</sup> In all cases of doubt, as distinct from probability, his teaching is the traditional one, clear and definite “in dubiis pars tutior est sequenda.”<sup>2</sup>

Moreover, it is always with the practical solution of a problem here and now that he is concerned, and therefore the sense in which he adopts the probabilism of Medina is applied separately in a series of chapters to various circumstances and various classes of people. Similarly in a conflict of opinions he does not regard two opposite solutions as equally probable in practice, but out of a variety of conflicting opinions, speculatively probable or more probable in the abstract, he selects the one which is to be followed in the concrete. Also the two terms between which a choice has to be made are “*opinio propria*” et “*opinio aliorum*,” not “*opinio probabilis*” et “*opinio probabilior*.” For though one’s own opinion is always regarded as more probable, yet the opinion of others is entitled to respect when supported by solid arguments. Hence he defines very carefully the degree of external probability required before it is licit to relinquish one’s own opinion in order to follow that of others. On this point he is very guarded and secure. An opinion to have external probability must be held by several doctors of learning, repute, and especially of experience in the particular matter under discussion.<sup>3</sup>

Finally the application of juristic principles finds no place whatever in his treatise on probability, except in matters of justice. That the practice was fairly common even at his time may be seen from this extract from Th. Sanchez (d. 1610), “*Quoties dubium est an impositum sit preceptum naturale, divinum vel humanum de aliqua re (infertur), non obligari dubitantem, quia donec constet de precepto possidet voluntas: et idem dicendum est, quando post prudentem inquisitionem*

1 Cf Schmitt in texts from Beja (d. 1587) and Henriquez (d. 1608 pp. 63 and 89.

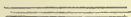
2 *Clav. Reg.*, Lib. I., c. xiii.

3 Cf *supra*, c. VII. § 2.



dubitatur, an haec res comprehendatur sub praecepti verbis, quia perinde est ac dubitare utrum de hac re lata sit lex.<sup>1</sup> The point is all the more noteworthy as Sayrus was a jurist of some repute, but nevertheless insists repeatedly that the point of view of a theologian is not that of a jurist.<sup>2</sup>

Sayrus attempted in effect to harmonise the new opinions of Medina, which he had learnt from his own master Vasquez, with the older system of Navarrus, whom he always held in the greatest esteem, and whom the lax Caramuel regarded as a rigorist.<sup>3</sup> At the time he wrote, the probabilism of Medina was becoming increasingly popular in all schools, and it was natural that he should follow the common trend of opinion. The fact that he restricted and interpreted it in the manner we have described is a testimony to his appreciation of its dangers and weak points, which became so scandalously apparent in the course of the next half century. This examination of Sayrus' teaching would be incomplete unless we considered it in the light of subsequent condemned propositions, which is the subject of the following chapter.



<sup>1</sup> Decalogue, Lib. II., disp. 41., n. 36. Text in Schmitt, p. 111, op. cit.

<sup>2</sup> Cf. Clav. Reg., Lib. X. 7, iii., c. i., n. 10. Gobat refers to Sayrus "instar trium jurisconsultorum." Vindiciae, n. 476.

<sup>3</sup> Theol. moral. fundam., p. 23. Text in Faugères, op. cit. I., 170.

## CHAPTER VIII.

### THE TEACHING OF SAYRUS IN THE LIGHT OF SUBSEQUENT CONDEMNED PROPOSITIONS.

Section 1. Rigorist Propositions, Alexander VIII., 1690. Propositions 2 and 3.

Section 2. Lax Propositions. Alexander VII., 1665. Propositions 26 and 37.

Section 3. Lax Propositions. Innocent XI., 1679. Propositions 1 2 and 3.

THE advocates of the various systems fruitlessly attempt to show that their particular method is the approved system of the Church, and this is specially true of the Probabilists. Thus Génicot: "*ex hoc facto quod haec Probabilismi doctrina tot saeculis in Ecclesia tradita et applicata fuit, invictum argumentum pro eius veritate exurgit.*"<sup>1</sup> Apart from the fact that "*tot saeculis*" is an exaggerated way of speaking of three centuries, the other systems were taught with at least equal vigour during those years. It must be insisted therefore, that according to the universal and prudent practice of the Church in matters still controverted, Probabilism has been neither condemned nor approved, but tolerated together with other systems, and the efforts of its violent supporters to prove that it has been and remains the approved system of the Church, are as intemperate as the efforts of its violent opponents to prove that it has been and remains condemned. But what the Church has done, and still does, is to preserve the balance and condemn excesses in both directions, and the long series of condemned propositions form a safe guide by which we can judge in a negative manner within what limits a doctrine may be taught.

These condemned propositions added a new terror to theological literature, viz.: "*Commentaries on the Condemned Propositions,*" in which opposing factions laboured to show that the views of their opponents were condemned therein, or that their own views understood in a "*genuine*" sense were not included. I propose to subject Sayrus' doctrine touching Probabilism to an examination in the light of subsequent condemned propositions, in order to have a clearer idea of his teaching, and in order to absolve him from charges

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<sup>1</sup> Génicot Theol. Moral, 1920., Vol. I., § 70.

of laxity which might reasonably be deduced, from seeing him carelessly bracketed with such unsavoury names as Diana and Caramuel.<sup>1</sup> It is true he wrote half a century before the laxity of some Moralists necessitated the condemnation of their opinions, but the very fact that a theologian's principles lead him into making statements afterwards reprobated by the Church, is sufficient sign that his principles are unsound and insecure.

The condemned propositions can be divided into two classes, those condemning rigorism and those condemning laxism.<sup>2</sup> The first need not detain us very long as Sayrus was clearly not a rigorist.

### Section 1.

**“Non licet sequi opinionem inter probabiles probabilissimam.”**

It is the third proposition condemned by Alexander VIII., December 7th, 1690, and extracted from the writings of John Sinnich (d. 1666), an Irishman and doctor of Louvain.<sup>3</sup> It would be possible to attribute rigorist doctrine to Sayrus only by disregarding or not understanding the distinction between Doubt and Probability. In a case of doubtful conscience, when the mind suspends assent altogether, the safe course must always be followed. Lea constantly confuses doubt and probability and commenting on this proposition and its adherents says “there is an echo of the rigorism of the mediæval Church in their adherence to the old rule that in doubtful matters the safer part is to be adhered to.”<sup>4</sup> It is Sayrus' rule also in all matters of doubt, but granted a solid probability sufficient to urge assent, doubt is no longer present.

**“Tametsi detur ignorantia invincibilis juris naturae, haec in statu naturae lapsae operantem ex ipsa non excusat a peccato formali.”**

This is the second proposition condemned with the above,<sup>5</sup> and is a necessary consequence from the doctrines of Baius and Jansenius that a man sins mortally even though he does not act freely, because his action is free in its cause, namely, in the freedom with which Adam sinned; therefore, in this sense, sins committed even in ignorance of the natural law are imputable to the agent, and are formally sinful. A similar

1 *e.g.*, Döllinger-Reusch, op. cit. I., p. 31; Ter Haar, “De Systemate Morali,” § 60.

2 In writing this section I am greatly indebted to a privately circulated brochure, “Documenta de mente Ecclesiae,” by Fr. de Langen-Wendels O. P.

3 Denz, 1293. Viva, III., p. 385.

4 Lea op. cit., Vol. II., p. 343.

5 Denz, 1292. Viva, Vol. III., p. 381.



proposition was condemned by Pius V., Oct. 1st, 1567, "Infidelitas pure negativa in his quibus Christus non est predicatus peccatum est"<sup>1</sup> The only thing to notice about Sayrus' teaching on this matter is that, following St. Thomas, he does not concede the possibility of ignorance of the first principles of the natural law, *e.g.*, "quod tibi non vis fieri, alteri ne feceris," nor of those things which are immediately deduced from its primary principles, but only of those dictates of the natural law which are known with so much difficulty, that even wise and prudent men have erred in regard to them, *e.g.*, the private vindication of injuries, or telling a lie in order to save one's life. In these cases invincible ignorance excuses from sin<sup>2</sup> unless it results from an erroneous conscience which is voluntary as already explained above.<sup>3</sup> "Opus ex tali ignorantia factum non est voluntarium in se aut causa sua; non in se quia nihil in se volitum nisi precognitum; non in causa sua quae est ignorantia invincibilis, quae ut diximus est, quam quis faciendo quod moraliter potest et tenetur facere, non potest vincere. Cum igitur ignorantia haec nullo modo volita sit, consequenter excusat a peccato, eo quod peccatum esse non potest, quod non est voluntarium, omne enim peccatum ideo peccatum est quia voluntarium."<sup>4</sup> This will suffice for the two rigorist propositions. Those which follow, condemning laxism, will have to be examined more carefully, in order to define Sayrus' position in their regard.

## Section 2.

**Quando litigantes habent pro se opiniones aequae probabiles, potest iudex pecuniam accipere pro ferenda sententia in favorem unius prae alio.**<sup>5</sup>

This proposition is the 26th condemned by Alexander VII., September 24th, 1665. Viva cites for this proposition Salon (d. 1620), Lessius (d. 1623) and Diana (d. 1663), who defend it as not contrary to the natural law, although it may be forbidden by positive law. Tamburinus (d. 1675) discusses the question with all seriousness, whether Probabilism is saleable matter, under the title "Venditio sententiae probabilis." Although his own opinion is in the negative, he answers affirmatively because of the authority of the doctors who defend it.<sup>6</sup> Some writers, in their anxiety to enumerate the defenders of this odious proposition, credit certain authors with defending it because they use the example to illustrate the question "de pretio pro re turpe accepto." Thus Escobar,

1 Ferraris Voce "Ignorantia," n. 9.

2 Clavis Regia, Lib. II., c. x., n. 16-23.

3 Supra, Ch. vi. 4 Clavis Regia, *ibid.*, n. 23.

5 Viva, p. 78 (sub. Prop. 22). Denz., 1126.

6 Tamburinus Decal., lib. 8, c. vii., § 3.

whom Pascal attacks in the VIII. Provincial Letter : " *Accepta ob turpem causam, solo jure naturali spectato, illicita non sunt, nec restituenda. Pactio pretii ob rem turpem illicita est nec obligat ; postquam facta est obligationem inducit : sic accipi potest pretium ob injustam sententiam datam, ob homicidium factum, ob meretricium. . .*"<sup>1</sup> All theologians treat similar questions in this way, even St. Thomas, and it is not necessary to go into the reasons for their decision, but it shows a curious lack of perspective to take obiter dicta in one question and exhibit them as enunciated principles of another.<sup>2</sup>

Sayrus goes very fully into all questions connected with judicial proceedings, as the canonical aspect of Moral Theology had for him a particular interest. A judge's salary in his day was a very complicated matter owing to the somewhat precarious system of "*stipendia,*" "*sportulae,*" "*munera,*" &c., which prevailed in some parts. But passing over these side issues, he states: "*Quoties Judex habet a lege vel conventione stipendium certum signatum, nihil aliud loco stipendii accipere potest a litigantibus ; si vero accipit tenetur restituere.*"<sup>3</sup> "*Posse judicem habere stipendium justum a lege taxatum illudque accipere sine peccato . . . si tamen aliquid ultra taxationem et stipendium debitum ratione muneris illius exercendi in pretium accipiat, non solum contra justitiam peccat, sed etiam ad restituendum illud obligatur.*"

A somewhat similar doctrine to that contained in the proposition is defended by Valentia (d. 1603) and Dicastillus (d. 1653), namely, that a judge may reject the more probable opinion and follow the less probable in favour of his friends and relations. From the examination of our author's teaching in the light of the second proposition condemned by Innocent XI., "*Probabiliter existimo judicem posse judicare juxta opinionem etiam minus probabilem,*" it is evident that Sayrus teaches the obligation of a judge to follow the more probable opinion ; a fortiori, therefore he may not judge according to the less probable in favour of a friend. But it must be admitted that when there are equal arguments on both sides and there is nothing to determine the balance of justice for one rather than the other, then subject to various safeguards and restrictions, he allows judgment to be given in favour of a friend. The chief limitation and restriction is that this course may be taken only when there is equal probability "*ex parte juris.*" "*Ex parte facti,*" *i.e.*, if both parties, for example, adduce equal arguments for the right of possession, then the matter is settled according to the accepted

1 Texts of Escobar Sanchez Filiucci and Lessius in the critical notes of Faugère's edition of Pascal I., p. 256 seq.

2 Cf Summa, 2-2, 62, art. 5, ad. 2.

3 Clav. Reg., Lib. XII., cap. xiii., n. 8.

juristic principles, "in pari delicto vel causa, potior est conditio possidentis." The distinction is an important one and underlies in one form or another his whole teaching on probabilism, which is concerned not with speculative opinions, but with a practical judgment of a question, *hic et nunc*, in all its circumstances. Bearing this in mind the following extract can be acquitted of any semblance of the laxity condemned by this proposition, "Quando judex videt utramque opinionem esse ex aequo probabilem ex parte juris, et ipse quoque ita judicat, potest licite propter amicum judicare secundam illam, quae amico magis favet . . . quia in tali casu ex vi justitiae distributivae, et officii sui, non debet bonum illud magis uni quam alteri conferre, cum aequale jus utrique competat: ergo liberum erit ei sequi quamcunque opinionem maluerit, et uni potius quam alteri pro libito favere, absque ulla personarum acceptione, cum acceptio personarum locum non habet nisi in eo quod fit ex debito justitiae distributivae; et patet a simili: Nam quando duo sunt aequè digni beneficio Ecclesiastico, potest libere superior conferre amico prout libere voluerit sicut omnes concedunt . . . Cavendum etiam est, ne judex propter munera, aut propter affectus particulares judicet opinionem illam probabilem, quae revera non est probabilis; unde inferunt auctores judicem, qui habet propositum ceteris paribus semper ferendi sententiam pro amicis, regulariter loquendo esse in periculo peccandi mortaliter. . . . Quod si habeat animum favendi semper causae magis justae, amicis vero quando certe constiterit paria jura illos habere, non est in tali periculo, quia tale propositum purgat affectum, et favere licet amicis pro libito, quando merita causae sunt paria."<sup>1</sup> Peter Soto (d. 1563), Salon (d. 1620), Bart. Medina (d. 1581) and Peter Aragon (1595), defended this opinion before Sayrus.<sup>2</sup> But later authors extended it and allowed judgment in favour of a friend even when the opposite side had greater probability. Thus Dicastillus (d. 1653), "Licet judici sequi opinionem minus probabilem, dummodo vere probabilis sit, relicta probabiliore, et secundum illum adjudicare amico et consanguineis."<sup>3</sup> This is condemned by the second proposition of Innocent XI., and is rejected by Sayrus who allows judgment in favour of a friend only when there is equal probability on either side, and when that probability is "ex parte juris" not "ex parte facti."

1 Clav. Regia., Lib. I., c. xi., n. 4-7.

2 Ibid, n. 3.

3 De Justitia, II., c. I., disp. 10, dub. 9.



**Si liber sit alicuius junioris et moderni, debet opinio censi probabilis dum non constet relectam esse a Sede Apostolica tanquam improbabilem.<sup>1</sup>**

This proposition is the 27th condemned by Alexander VII., 24th September, 1665. The Probabilism of the first half of the XVII. century quickly developed into laxity, and embraced propositions of such a nature as to merit the condemnation of the Church. It is not altogether easy to determine the author of these propositions, but this particular one was certainly propounded by Roccafull (1648) and in particular by Caramuel (d. 1682).<sup>2</sup> Among the contemporaries of Sayrus, Thomas Sanchez (d. 1610) writes "An auctoritas unius Doctoris probi et docti reddat opinionem probabilem. Quod affirmant Angelus, etc., etc., et favet Divus Thomas . . . ubi ait posse quemquam amplecti opinionem quam a magistro audivit in iis quae ad mores pertinent. Et probatur, quia opinio probabilis est quae non levi innitur fundamento. At auctoritas viri docti et pii non est leve fundamentum."<sup>3</sup> Perhaps this is the text which Viva relies upon in support of the equally astonishing statement ascribing this opinion to St. Thomas in Quodlibeta III., art. 10, whereas St. Thomas in this place teaches precisely the contrary, "In his vero quae pertinent ad fidem et bonos mores, nullus excusatur, si sequatur erroneam opinionem alicuius magistri: in talibus enim ignorantia non excusat: alioquin immunes essent a peccato qui secuti sunt opiniones Aarii, Nestorii et aliorum heresiarcharum."

The insidious nature of this proposition was largely responsible for the laxity of opinion in the middle of the XVII. century, and is responsible for a good deal in our own day; when people are still sometimes found who support the wildest opinions on the authority of a Manualist. Viva, commenting on the proposition, and doing his utmost to evade it according to his custom, says, "Hinc sit, posse aliquem consulere plures viros doctos, donec inveniatur aliquem qui ab obligatione v.g. restituendi vel jejunandi illum excuset. Ratio est quia unicuique licitum est suo jure uti, et per licitum et honestum medium deobligari." There seems to me no difference between this doctrine and that of the condemned proposition. "Adverte P. Vivam docere te posse consulere varios doctores, cur? ut veritatem assequaris? ut sententia, tametsi rigidior tibi manifestetur? Vah nimiam simplicitatem! Ut tandem invenias aliquem qui ab obligatione restituendi, vel jejunandi te excuset ut docet Sanchez . . . . Meditare *deobligari* et omnia comprehendisti."<sup>4</sup>

1 Viva I., p. 94. Denz, 1127.

2 Texts in Concina Apparatus, Lib. III., diss. v., c. 1.

3 Opus Morale, Lib. I., c. 1.

4 Concina, op. cit., n. 14.

Moreover the supposition that every opinion is tenable until condemned by the Church, is a negative method of arriving at truth which has no counterpart in any other science ; is every medicine concocted by quack doctors to be considered good until it has caused the death of somebody ? It is evident from these and other examples to be seen in Concina, that the matter of this condemned proposition was in existence among some theologians some sixty years before it was condemned.

The teaching of Sayrus on the point may be fairly judged from the following quotations. He insists in the first place on the necessity of examining the *internal* grounds for the probability of an opinion in every case where a person is capable of forming a judgment upon it, as we have already pointed out,<sup>1</sup> and having explained the principle of the liceity of following a solidly probable opinion, he immediately safeguards it and limits it in the following way : " Quae conclusio juxta ea quae diximus intelligi debet, scilicet quando opinio illa, quam sequor contra propriam *non unius tantum doctoris est*, et firmas pro se rationes habet; *si enim unius tantum doctoris esset*, et satis debiles pro se rationes habet, non censeretur prudens, qui eam contra propriam et communioem omnium aliorum sequeretur. Debet igitur esse opinio plurium doctorum etiamsi pauciores sint quam pro propria opinione."<sup>2</sup> " Sicut enim satis non est ut unus aut alius doctor eam teneat, ita neque satis est quod in Theologia vel Jure Canonico vel civili graduatus sit . . . nec enim sufficere videtur unius aut alterius Doctoris, *etsi gravis*, opinio si reliqui omnes contrariam sententiam sequantur."<sup>3</sup>

Reliance on a young and modern author rather than on the wisdom of the ancients is one of the many characteristics of the later probabilists, and in fact explicitly defended by Caramuel and Reginaldus ; the modernity and novelty of the whole system of Probabilism is one of its chief advantages in their eyes. Sayrus, however, relies principally on the old Scholastics and especially S. Thomas ; so much so that he finds it necessary to say that the one case in which the opinion of the older authors should not be followed, is when it is evidently based on false intrinsic reasons, or has been reversed by the judgment of the Church.<sup>4</sup> And always, if it is a question of deciding the probability of an opinion on external grounds, it is the judgment of an old and experienced man that counts : " viros peritos et in illa materia versatos et quos timoratae conscientiae esse norunt, ut ab eis discant quae

<sup>1</sup> Supra, c. vii. § 2.

<sup>2</sup> Clavis, Regia, Lib. I., c. vi., n. 5.

<sup>3</sup> Ibid, n. 2.      <sup>4</sup> Ibid, n. 6.

opinio sit probabilior, quae probabilis ” “ nonnunquam plus in rebus moralibus valeat praxis quam subtilis et ingeniosa rerum examinatio.”<sup>1</sup> He does not treat *ex professo* the point contained in the condemned proposition, that an opinion is to be considered probable until it has been condemned by the Church, because in his day the Church did not exercise the right of condemning propositions to the same extent as became necessary sixty years later.

There remains to consider his interpretation of the text of S. Thomas in *Quodlibet* III., 10, referred to above, which teaches that a person is not excused from sin, if he follows the opinion of a teacher concerning some point of morality, and that opinion afterwards proves to be false. Viva following Sanchez, as we have seen, avoids the difficulty by the simple but impudent expedient of falsifying the text. Sayrus, it seems to me, arrives at the truth of S. Thomas' meaning, by the very safe rule of considering the passage in its whole context. It is wrong to follow the opinion of a master which is contrary to the manifest testimony of Holy Scripture and the common teaching of the Church. “. . . satis esse bona fide doctorem fide dignum consulere. Quod si casu aliquo accidat ut doctor ille errorem doceat, ignoranti non imputabitur sed doctori. Alioquin simplices omnes qui suis parentibus et parochis docendos se tradunt manifeste peccarent . . . Qua ratione merito Vasquez multos schismaticos et hereticos simplices ab errore excusatos esse docet, quia suis maioribus cedunt, nec adhuc sufficienter vident eos errare. Econtra . . . si audiant aliquid novum contra ea quae ipsi communiter in Ecclesia audire, peccarent statim assentiendo, quousque noverint illud universaliter ab Ecclesia teneri. Quo sensu intelligendus est S. Thomas in illo art. 10, ut manifeste satis ex illius verbis colligi potest, ait enim : ‘ Qui ergo assentit opinioni alicuius magistri contra manifestum Scripturae testimonium, sive contra id quod publice tenetur secundum Ecclesiae auctoritatem non potest ab erroris vitio excusari ; in rebus enim dubiis non est de facile praestandus assensus, ut ait S. Augustinus lib. 3 de doct. Christiana cap. 36: consulere debet quis regulam fidei quam de Scripturarum planioribus locis, et Ecclesia auctoritate precepit’ ”.<sup>2</sup>

It is evident, therefore, that this false proposition is not defended by Sayrus in any sense as a general rule of guidance. In exceptional cases, however, the opinion of one doctor may be safely followed, when, namely, he is endowed not only with learning, but also with sanctity and prudence ;

<sup>1</sup> Ibid, c. vi., n. 2 and c. viii., n. 4.

<sup>2</sup> Clav. Reg., Lib. II., c. ix., n. 10.



the Church has so decided with regard to the opinions of S. Alphonsus. Also in the very frequent cases where a person owing to his ignorance, youth or scrupulosity is incompetent to form his own conscience on any matter, and is, therefore, continually thrown on the guidance of superiors or confessors. Sayrus understands this point admirably, and in discussing the whole matter of probable opinions, carefully distinguishes the opinion which may be followed by people sufficiently skilled to form a judgment, and those who are not. This point has already been sufficiently noted.<sup>1</sup> He approves the teaching of the *Summa Sylvestrina*, "*quod licet sequens opinionem sui doctoris in iis in quibus non potest esse ignorantia invincibilis a peccato non excusetur, in aliis tamen excusatur etiam cum quis propter affectionem, quam erga doctorem suum habet judicat probabiliter, ut sibi videtur, esse verum, quod est falsum: unde si doctor ille quem imperitus consulit, diceret ei communioem esse opinionem oppositam, sed illam sibi magis probari, tuta conscientia poterit illam sequi, si alias, de doctrina et integritate illius bonam habet opinionem.*"<sup>2</sup> The opinion is then probable in the Aristotelian and Thomistic sense, and he is careful to note that in all such cases the person is not acting with a doubtful conscience, which is certainly the case if the teaching of Sanchez may be followed, allowing a diligent search and enquiry among numerous doctors until a favourable opinion is obtained.

Similarly in cases of scrupulosity, which for Sayrus is a species of feeble-mindedness, the person being entirely incompetent to form a judgment, must in matters of conscience be guided absolutely and without any further reflection by the opinion of others. "*Inter alia vero remedia haec mihi potissime videntur. Primum est ut post remedium corporale, scilicet post remotionem vel mitigationem causae per medecinas et moderatas recreationes, recurat ad Deum petendo gratiam suam . . . Secundo ut non judicio et cogitatione sua nitatur, sed non obstante quacunque alia ratione quae sibi offertur, simpliciter credat et obediat praelato suo, et aliis piis et probis viris, praesertim confessario, ac patri spirituali suo . . . non debet confessarius rigorosus rigidus et nimis durus esse, nec idem iudicium de illis ac de aliis hominibus, qui non essent scrupulosi, ferre, sed semper illorum dubia in meliorem partem interpretari debet, et nonnunquam etiam hortari eos poterit, ut contra scrupulos faciant.*"<sup>3</sup>

1 Supra, c. vii, § 2.

2 *Clavis Regia*, Lib. I., c. viii., n. 2. 3 Ibid, c. xiv., n. 2 and 4.

## Section 3.

**Non est illicitum in sacramentis conferendis sequi opinionem probabilem de valore sacramenti, relictâ tutiore, nisi id vetet lex aut conventio aut periculum gravis damni incurrendi. Hinc sententia probabili tantum utendum non est in collatione baptismi, ordinis sacerdotalis, aut episcopalis.<sup>1</sup>**

This is the first proposition condemned by Innocent XI., March 2nd, 1679. It is taken from the theses defended at Antwerp by Ignatius Maillor, a professor there in 1673, and Paschale adds "neque scio an in aliquo alio auctore reperiatur integre, aut in illo sensu, qui ex eius verbis depromitur." But it was sufficiently common among probabilists before its condemnation. Viva quotes four, including Peter Ledesma (d. 1616), and Ter Haar gives a list of twenty-four, among whom he includes Sayrus.<sup>2</sup> Lea on the other hand, who makes a very thorough search for lax teaching among Catholic moralists, absolves Sayrus not only from this, but also from other similar propositions. "Soon after this (*i.e.*, 1600) Carbone tells us that there are some who doubt whether probable opinions can be followed as to the forms and administration of the Sacraments, but he does not agree with them but with Medina, for if probabilities can be followed in other weighty matters, why not in these Sayre admits that Medina had followers in this, but he shrinks from applying probabilities to the sacraments, and he also objects to the assertion that the physician and the judge can follow the less probable opinion in opposition to the more probable."<sup>3</sup>

Ter Haar's erroneous judgment arises from examining only one part of Sayrus' text, where he discusses the matter from a speculative point of view. But since the Sacraments are practical signs of grace, and exist in order to be used for the spiritual benefit of mankind, it is with the practical aspect that Sayrus is more concerned, and seeing that his teaching in practice is absolutely orthodox and beyond suspicion, it is inaccurate, not to say unfair, to credit him with teaching something plainly contrary to his considered conclusions. "Sic utriusque Soti et aliorum sententiam veriore judico, teneri scilicet ministrare sacramentum citra omnem opinionem, hoc est, sequendo probabiliorem et tutiorem opinionem, quotiescumque id possit absque detrimento." He gives an example from the various opinions regarding the form of Baptism, and continues: "tenetur sacerdos ministrare Sacramentum juxta

<sup>1</sup> Viva, p. 179. Paschale, p. 5. Denz, 1151.

<sup>2</sup> Viva, p. 183, n. 8. Ter Haar "De Systemate Antiq. Probab.," p. 91.

<sup>3</sup> Lea, *op. cit.*, p. 336.

opinionem probabiliorem et tutiorem, et peccaret graviter aliter agens, quia exponeret periculo salutem spiritualem proximi. Quia obligatio charitatis, qua tenetur providere proximo de remedio, postulat ut provideamus remedia illa, quae sunt absque periculo, quando id possumus absque detrimento. Ergo qui minus tutam partem eligit propter opinionem probabilem non satisfacit huic obligationi, et ita quamvis non peccet male tractando Sacramentum, peccat tamen male providendo remedio tuto et securo . . . Obligat preceptum charitatis ut relictæ probabili opinione, opinionem probabiliorem et tutiorem sequamur, et proximum remedium certum et sine periculo adhibeamus . . . et idem de ceteris sacramentis dicendum est.<sup>1</sup>

It may be conceded that in speculating on the reasons which make it wrong to administer a Sacrament on a probable opinion, Sayrus is in error in assigning them entirely to the duty of charity, and not to the reverence due to the Sacrament;<sup>2</sup> and it is commonly held now that the proposition is to be understood in this sense: "tota enim ratio, cur non liceat in sacramentis conferendis adhibere opinionem probabilem relictæ probabiliore, est reverentia sacramentis debita, ne scilicet periculo nullitatis exponantur sine gravissima causa."<sup>3</sup> But this after all, is a small point compared with the fact that his practical conclusion is entirely orthodox; the authors, for example, Ledesma, whose unsafe opinion he records, forbid the use of a probable opinion only in Baptism and Penance, as if no spiritual harm results from the maladministration of the other Sacraments! A similar point and a similar difference of opinion as to Sayrus' mind will be seen under the second proposition of Innocent XI. The reason for the misunderstanding arises through not appreciating Sayrus' point of view in all these matters, *i.e.*, a point of view which is concerned more with a prudent practical judgment of a question at issue here and now in all its circumstances, than with theoretical speculations.

Notwithstanding the condemnation of this proposition it is universally admitted that there are exceptions, namely, in administering the sacraments to the dying, and in the case of probable jurisdiction of the confessor.<sup>4</sup> A more serious difficulty is the apparent contradiction between this proposition and the practically universal opinion that a confessor is bound to absolve a penitent who insists on following a probable opinion in connection with his dispositions.<sup>5</sup> The ardent

1 Clav. Regia, Lib. I., c. vii., n. 6 and 7. Cf also De Sacramentis, Cap. IV., art. 2. 2 Ibid, n. 4. 3 Prümmer Theol. Moral, III., § 85.

4 S. Alph. VI., n. 57.

5 Ibid, n. 604. St. Alphonsus quotes more than thirty authors, including Sayrus, in favour of this teaching.



anti-probabilist would either refuse absolution as Billuart teaches,<sup>1</sup> or grant absolution on what is little more than a fiction of supposing that this sort of penitent is in a state of grave spiritual necessity. Sayrus however teaches what has since become almost universal, that it is the confessor's business to safeguard the Conscience of the penitent, and granted he is rightly disposed and is persuaded in conscience of the truth of his probable opinion, the confessor may not refuse absolution, even though his own opinion is contrary to the penitent's and more probable.<sup>2</sup> In an earlier work he teaches the same doctrine, but with far less assurance, solving the point on the ground that the penitent is supposed to be excused on the ground of ignorance.<sup>3</sup>

**Probabiliter existimo judicem posse judicare juxta opinionem etiam minus probabilem.**<sup>4</sup>

This is the second proposition condemned by Innocent XI., March 2nd, 1679. It is taken literally from Martin Bonacina (d. 1631).<sup>5</sup> It would be useless to quote other authors who defended it, since it is well known to have been widely held before its condemnation. Camargo (d. 1722) credits seventy authors with teaching it, Diana (d. 1705) enumerates twenty-nine.<sup>6</sup> The numbers, though sufficiently imposing, must be taken with a certain reservation, because the authors who enumerate them do not always examine them carefully enough to distinguish between probability "ex parte juris" and "ex parte facti." After its condemnation it continued to be taught with many tortuous distinctions and reservations, e.g., an inferior judge may decide according to a less probable opinion if that is commonly accepted in his court, but the judge in a Court of Appeal may not.<sup>7</sup> Ter Haar, among the few modern authors who refer to him at all, includes Sayrus in a long list of names of authors guilty of teaching the condemned proposition.<sup>8</sup> On the other hand Lea, the purpose of whose book is to bring odium on the Church by exposing the laxity of Catholic theologians, and who would be only too glad to fix this opinion on Sayrus with the rest, goes out of his way to acquit him of this teaching.<sup>9</sup>

The following passages will make it clear that Ter Haar is not correct in his judgment: "Quando duae

1 De Consc. Diss. VI., art. 4.

2 Clavis Regia, Lib. I., c. ix., and Supra, p. 113.

3 Summa Sacramenti Penitentiae, cap. 35.

4 Viva, p. 192. Paschale, Innocentii tuba, p. 49. Denz, 1152.

5 Theol. Moral II., d. 2, q. 4. Text in Paschale, p. 49.

6 Quoted by Concina, Apparatus, p. 459.

7 Laymann and Vasquez approved by St. Alphonsus, Lib. IV., n. 209.

8 Ter Haar. De Systemate Antiq. Probab., p. 91.

9 Lea, op. cit., Vol. II., p. 336.

opiniones ex parte facti probabiles sunt, sed ita ut una earum fit probabilior, in civilibus tenetur iudex in conscientia judicare in favorem probabilioris . . . quia iudex tenetur judicare secundum merita causae, sed qui factum probat per testimonia meliora et probabiliora habet maiora merita causae ut constat . . . Recta autem ratio dictat, ut sententia proferatur secundum maiorem dignitatem causae : nec est aliqua opinio probabilis, quae dicat licitum contra huiusmodi hominem sententiam proferre.”<sup>1</sup> This quotation is so clear as to need no comment ; it would be possible to implicate Sayrus in the full meaning of the prescribed proposition, only by a partial and superficial reading of his text, and by not taking sufficient account of what he means by acting on a probable opinion.

For him it means always and in every case a practical judgment concerning a question *hic et nunc* and in all its circumstances. Considered speculatively and in the abstract various conflicting opinions may be called “probable” or “more probable,” but with this theoretical aspect he is not particularly concerned ; the trend of his thought is to bring these speculations to bear on the existing practical case, and the guiding factor in this operation is not skill in sorting opinions but PRUDENCE : “unde leges non decernunt ut feratur sententia juxta opinionem probabiliorem Doctorum circa jura, sed in favorem illius qui melius probat et ostendit factum. Quod vero pertinent ad opiniones Doctorum leges nihil statuunt, sed illud iudicis arbitrio et prudentiae relinquunt, prout ipsamet etiam naturalis ratio dictat.”<sup>2</sup> “Maius autem meritum causae non accipitur aut intelligitur secundum intelligentiam juris, sed secundum processum illum quo factum probatur, inter quae duo maximum discrimen est : nam testimonia quae adducuntur in facti confirmationem, quo maiora fuerint eo causam ipsam digniorem efficiunt.”<sup>3</sup>

His treatment of this point exemplifies his teaching on Probabilism in general, and throughout his work he does not labour to establish any universal system applicable to all cases, but considers each on its merits reasonably and prudently “quia in moralibus res in particulari examinandae sunt.” Hence, considering the speculation of lawyers about the interpretation of some point “ex parte juris,” some opinions may have greater theoretical probability than others ; but it is the judge’s business to decide for the party which has the greater probability “ex parte facti,” and in arriving at a decision Sayrus certainly teaches that a judge may reject the opinion which speculatively is more probable “ex parte

1 Clavis Regia, Lib. I., Cap. ix., n. 13.

2 Ibid, n. 13, ad finem.

3 Ibid, in medio.

juris," and follow that which, according to his conscience, he regards as probable.

From the words of the condemned proposition it is not apparent in which sense the Church condemns the proposition. Certainly it will be admitted that the condemnation in its essence is directed against giving judgment to the less probable cause "ex parte facti," and Paschale is careful to distinguish the authors who teach its liceity "ex parte facti" from those who treat the question only "ex parte juris." Most modern authors do not advert to the distinction at all, and they would take it for granted, therefore, that an author who defended the propositions "ex parte juris" would apply it also "ex parte facti." That this is not the position of Sayrus is abundantly evident from the above quotations. Everyone admits an exception in criminal cases in favour of the accused who has probable proofs of innocence, against the accuser whose arguments are more probable. "In criminalibus . . . probationes debent esse luce meridiana clariores : unde quando jura partium non sunt ita clara sed obscura, licet declinare in favorem rei quamvis probationes accusatoris sint paulo probabiliores et clariores : eo ipso enim quod defensio rei maneat adhuc probabilis, probationes contra reum non sunt luce meridiana clariores."<sup>1</sup>

**Generatim dum probabilitate, sive intrinseca, sive extrinseca, quantumvis tenui, modo a probabilitatis finibus non exeatur, confisi aliquid agimus semper prudenter agimus.**<sup>2</sup>

This is the third proposition among those condemned by Innocent XI., March 2nd, 1679. As it stands it is taken literally from Tamburinus (d. 1675),<sup>3</sup> but like most of these propositions, similar doctrines can be traced to much older authors contemporary with Sayrus. That Viva labours to prove Tamburini innocent of this proposition because the word "generatim" is not found in his text, is a good example of the method he employs. On the other hand Concina is equally intemperate : "in hac 3a propositione evidenti ratiocinio colligitur damnatus Probabilismus." In a similar way the ardent probabilists rejoice over their adversaries in the condemnation of the third proposition by Alexander VIII. "non licet sequi opinionem inter probabiles probabilissimam." It is this excessive partisan spirit that has made the whole of this subject more tiresome and intricate than it already is.

<sup>1</sup> Clav. Reg., Ibid, n. 15.

<sup>2</sup> Viva, p. 195. Denz., 1153.

<sup>3</sup> Cf text in Paschale, Innocentii Tuba, p. 76, and Concina, Apparatus p. 453.



The present proposition is in many respects equivalent to the 27th of Alexander VII. "si liber sit alicuius junioris et moderni, debet opinio censi probabilis dum non constet reiectam esse a Sede Apostolica tanquam improbabilem;" it restrains the laxity of theologians, who tolerated the most dangerous opinions provided they were supported by the slightest and most slender degree of probability.

That such opinions were flourishing to an alarming degree in the middle of the 17th century is only too apparent, and the fact is known to all the world through the Provincial Letters of Pascal. But beyond the fact that the condemnation is an effort to check laxity, the exact implication of the word *tenuis* is not too apparent and cannot be mathematically determined. Gury regards an opinion as solidly probable "quam absolute tenent quinque aut sex theologi probitate, iudicio, et scientia praestantes, nisi ratio certa contra istam opinionem appareat,"<sup>1</sup> but he goes on to say "Homo rudis audiens a viro, quem ipse existimat probum prudentem et doctum, opinionem aliquam esse certo probabilem, potest eam ut talem habere." Behold a further excursion into reflex principles. Can an opinion which is only "probably" probable be regard as solid, and escape this condemnation? After this proposition was condemned, many authors continued to teach that a probably probable opinion could be safely followed, but even Viva decides against it.<sup>2</sup> It must be confessed that there is practically no finality in this matter, and the involved arguments of the various sets of theologians appear little more than a juggle of words. Among the earlier authors who defended the liceity of following a slightly probable opinion Tamburini quotes Bresserus (d. 1635) and Francis Amicus (d. 1651),<sup>3</sup> and for the liceity of following a probably probable opinion he quotes John Sanchez (d. 1624) and Salas (d. 1612).

The teaching of Sayrus from what has been already stated obviously leaves no sort of suspicion that he approved of slight probability: "quae a multis viris gravibus et doctis proponitur et veris et solidis argumentis nititur, et per quas argumenta opposita facile solvuntur . . . tanquam probabilis et segura in praxi censenda est"<sup>4</sup> "si satis debiles pro se haberet rationes non censeretur prudens qui eam sequeretur"<sup>5</sup> "non possunt semper tuta conscientia quamcunque opinionem

<sup>1</sup> Gury Theol. Moral I., § 54.

<sup>2</sup> Viva, p. 197, § 10. Reiffenstuel Theol Moral, Tr. I., dist. iii., n. 45, discusses the opinions of various authors on the meaning of *tenuis*. Paschale also decides against it giving authorities. Op. cit., p. 89.

<sup>3</sup> Cf texts given by Ter Haar "De Systemati Morali antiquorum probabilistarum," p. 78.

<sup>4</sup> Clavis Regia, Liv. I., c. vi., n. 2.

<sup>5</sup> Ibid, n. 5.

probabilem sequi . . . et qui aliter agunt nec prudenter et rationabiliter operari censentur ".<sup>1</sup> The phrase "probabiliter probabilis" is never used by him at all, but in speaking of a less learned confessor following an opinion which some doctor or other has decided to be probable, he insists on the greatest caution and prudence, afraid that embracing an opinion, the reasons for which he is not able to judge, he may be acting with a doubtful conscience, or following an opinion which has long since been rejected by competent authorities as improbable.

These are the chief condemned propositions which bear directly on Probabilism, and I have endeavoured to state Sayrus' teaching in regard to them as fairly as possible. It will be seen that he is free from any implication in them, with the exception perhaps of the first and second of Innocent XI., regarding judges and Sacraments. It could be urged that his teaching, speculatively considered, comes within the ambitus of the condemnation, since he allows a judge to follow a probable opinion "ex parte juris," and sees no objection to following a probable opinion as far as the reverence due to the Sacrament is concerned. Seeing, however, that in both cases his practical conclusion is entirely orthodox and bearing in mind his notion of Probabilism which we have gone into at some length, it must be admitted that in an age when Probabilism was accepted without question by practically all schools, his teaching is extremely moderate and sound, and compares favourably with the doctrine on similar points expounded by many of his contemporaries. Moreover it is to be noted again that Lea, writing with a bias against Catholic morality finds nothing to complain about in Sayrus' teaching on these points, nor is he once the object of attack in the letters of Pascal.

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1 Ibid, c. viii., n. 4.

# PART III.

## CHAPTER IX.

### SAYRUS AND ST. THOMAS.

Section 1. The Sacraments. Physical Causality. Internal Intention. Character. Matter and Form of Matrimony.

Section 2. Human Acts. The Essence of objective morality. Indifferent human acts. The external act.

Section 3. Sin. Mortal and Venial Sin. The specific diversity of sins.

Section 4. Immutability of the Natural Law. The judicial Conscience.

THE Benedictine Order played a very small part in the great scholastic revival of the XIII. century, and when the interest in theology was revived in the reforms of the XVI. century, the Benedictines had no scholastic tradition to maintain; Cardinal Aguirre could say that Benedictines were not tied to any particular school of theology.<sup>1</sup> When the University of Salzburg was founded in 1622, St. Thomas was made the norm which they professed to follow, but as we have already pointed out, Sayrus was the first great moral theologian produced by the monastic revival. And seeing that he was not a member of any particular school, it is worthy of note that in all things St. Thomas was the fountain head from which he drew his doctrine. In the following pages a few points of his teaching will prove his faithful adherence to his master. It must be remembered also that in innumerable points he departs from the opinions of Vasquez, under whom he learnt theology in Rome for several years,—although observing the “*pietas*” due to an old professor, he rarely combats Vasquez, who was alive at the time he wrote, *ex professo* and by name.

That his purpose was to expound Thomistic doctrine is evident from his own words. “*In quibus omnibus explicandis, quamvis nonnunquam D. Thomae ordinem questionum et articulorum seriem sequuti non sumus . . . semper tamen Doctoris Angelici et sanctissimi sententias explicamus defendimus et confirmamus*”<sup>2</sup> His work, “*De Sacramentis*” is a particularly good

<sup>1</sup> Aguirre Comment in Theol., S. Anselmi I., disp. i., § 9 (Ziegelbauer II., c. i., § 2).

<sup>2</sup> Preface to “*De Sacramentis*.”



example of his method of adhering *ad amussim* to the teaching of St. Thomas. Every chapter is prefaced with a Thomistic text taken from the *Summa*, and there is evidence on every page that he has studied and assimilated its doctrines. Unfortunately, after the appearance of his work on the Sacraments, his superiors insisted on him dealing entirely with Moral Theology and Casuistry,<sup>1</sup> and his early death prevented him from finishing the work he had undertaken, so that on many points there exists no record of his opinions; but in this book at least he shows the true Thomistic and Scholastic spirit in the endeavour to treat Dogma and Moral together.

In the following pages a few controverted points will be enumerated in order to show the fidelity of Sayrus to the doctrine of St. Thomas.

### Section 1.—The Sacraments.

**Physical Perfective Causality of the Sacraments.** This distinctive Thomistic doctrine is defended by Sayrus at great length in "*De Sacramentis*." The opinion that the Sacraments were causes of Grace "*per accidens*" "*occasionaliter*," taught by Scotus, S. Bonaventure, Durandus, and Scotists generally, had ceased to be taught since the Council of Trent. It's lineal successor in Scotist Schools is Moral Causality, taught now by most Jesuits theologians, and in Sayrus' day chiefly by his former teacher Vasquez. "*Existimavit ergo Scotus non alio modo gratiae causas esse quam meritum causa sit mercedis; et ita cum meritum non alia ratione sit causa mercedis quam in genere causae moralis . . . tenetur Scotus concedere (si consequenter loqui voluerit) sacramenta esse solummodo causas morales gratiae.*"<sup>2</sup>

He considers this system in great detail, and while allowing it to be possible, rejects it in favour of physical causality, because of the interconnection between the Sacraments and the Passion of Christ. "*Cum ex dictis manifestum est sacramenta nostra causas morales gratiae dici posse, probabilior tamen ea est quae affirmat tam humanitatem sacratissimam Christi et passionem quam sacramenta nostra, non solum causas esse morales et meritorias gratiae, sed etiam instrumentales ministeriales et efficientes esse, quae activitate sua ad modum instrumenti physice active attingunt et producunt gratiam et justificationem nostram.*"<sup>3</sup>

The other ancient system "physical dispositive causality" defended by St. Thomas in the *Commentary*

<sup>1</sup> Preface to "*Thesaurus Casuum*."

<sup>2</sup> *De Sacramentis*, Lib. V., cap. iii., art. 2.    <sup>3</sup> *Ibid*, art. 5.

on the Sentences, has become of some importance in these days owing to its partial revival by Cardinal Billot. Sayrus refers to it as rejected by all with the exception of Michael de Palatios and Ferrariensis. He shows that this opinion which was held by St. Thomas in the Sentences is rejected in the Summa III. q. 62, "*cum ibidem copiosius et exactius quam alibi unquam de hac causalitate sacramentorum tractans, ne unum quidem verbum de hac sententia attulit, sed aliam longe diversam et veriore apposit.*"<sup>1</sup> He rejects this theory in seven arguments chiefly drawn from Capreolus, the most cogent being "*quia non minus repugnat per sacramenta instrumentaliter attingi productionem huiusmodi ornatus, vel characteris, quam gratiae; quandoquidem sicut gratia est qualitas spiritualis, ita etiam character et ornatus ille, qualitas spiritualis est, omnemque naturae vim excedit. Qua ergo ratione concedunt sacramenta posse instrumentaliter producere istas dispositiones, concedere etiam debent posse producere gratiam, aut si negant de gratia ob eius excellentiam, etiam et de illis negare debent.*"<sup>2</sup> Moreover it is contrary to the obvious meaning of dogmatic decrees of Councils.

What Sayrus would have said about the "intentional dispositive causality" of Card. Billot, may perhaps be gathered from the vigorous way in which he sustains the traditional Thomistic doctrine that the Sacraments cause Grace "*instrumentaliter physice perfective.*" He establishes first the foundation of the Thomistic doctrine, namely, that the Sacred Humanity and the Passion of Christ as the "*instrumentum conjunctum Verbo*" is the effective cause of our justification "*Quidquid enim aliqui docuerint eam non aliam efficientiam respectu gratiae et justificationis habere, nisi solum quod eam meruerit et impetraverit; alii tamen magnificentius et excellentius de Christi humanitate loquentes, quam Deus sic dilexit, ut eam in unitate suppositi sibi univerit, constanter docent, eam cum Deo ipso concurrere circa justificationem nostram, et remissionem peccatorum, id est, Deum usum esse ipsa Humanitate, eiusque actionibus meritoriis praeter id quod solverunt aut meruerunt, ut etiam active concurrerent ad gratiam et justificationem nostram.*"<sup>3</sup> The connection between the Sacraments as "*instrumenta separata*" and the humanity of Christ as "*instrumentum conjunctum*" is the basis of the argumentation covering several pages in proof of physical causality, exposed with clarity and precision.

**An Internal Intention is necessary for the Valid Administration of the Sacraments.** Every intention is of course

1 De Sacramentis, Lib. V., c. ii.

2 Ibid, c. ii., art. ii., ad quintum.

3 Ibid, c. iii., art. 5.

internal "*ratione principii*," since it is an act of the will. The controversy turns on the question whether the "*intentio faciendi quod facit Ecclesia*"<sup>1</sup> is to be taken *materially*, namely, the intention of doing the external act prescribed by the Church, or *formally*, namely, the intention of conforming at least implicitly to the will of Christ by performing the action as a sacred one. All are agreed that it is not necessary to have faith in the rite, nor to intend to confer grace, nor even to intend to do what the "Catholic" Church does; and this common universal doctrine is explained by Sayrus.<sup>2</sup> The point is whether anything further is required on the part of the minister than the intention to perform the rite which the Church prescribes externally. Ambrosius Catharinus (d. 1543), one of the Trent theologians, is the chief exponent of the sufficiency of an external intention, but it is an error to suppose that the doctrine originated with him, for it was defended by Rolandus Bandinellus, afterwards Alexander III. (d. 1181), and Robert Pullus (d. 1221), and was known to St. Thomas.<sup>3</sup> Owing to his authority and that of all the scholastics, the question died out until revived about the time of the Council of Trent by Ambrosius Catharinus and Salmeron (d. 1585).

It cannot be said that the doctrine of the sufficiency of an external intention has been condemned by the Church, although it is less in harmony with the decrees of Florence and Trent. It received a severe blow in the condemned proposition of Alexander VIII. : "*Valet baptismus collatus a ministro qui omnem ritum externum formamque baptizandi observat, intus vero in corde suo apud se resolvit : non intendo quod facit Ecclesia.*"<sup>4</sup> Leo XIII., however, in the Constitution "*Apostolicae Curae*" condemning Anglican Orders, rather favours it : "*Cum quis ad sacramentum conficiendum et conferendum materiam formamque debitam serio et rite adhibuit, eo ipso censetur id nimirum facere quod facit Ecclesia.*"<sup>5</sup> The chief argument in its favour is that one could never be sure of the minister's internal intention, and therefore never be sure of having received a Sacrament validly; it is in answering this objection that the opinion is cited by St. Thomas "*alii melius dicunt quod minister sacramenti agit in persona totius Ecclesiae, cuius est minister ; in verbis autem quae profert exprimitur intentio Ecclesiae ; quae sufficit ad perfectionem sacramenti nisi contrarium exterius exprimitur*

1 Decretum pro Armenis Denz, 695. Conc. Trid Denz, 854.

2 De Smet De Sacramentis, § 121. Sayrus De Sacramentis, Lib. II., c. iii., q. 2.

3 De Smet, Ibid note 3. Summa 3, 64, art. 8, ad 2.

4 Prümmer Theol. Moral III., § 67. Denz 1318.

5 Text in Ferraris Bibliotheca, Supplementum Bucceroni, p. 635.



ex parte ministri, vel recipientis sacramentum.”<sup>1</sup> Very few theologians have held it after the condemned proposition by Alexander VIII., December 7th, 1690, but at Sayrus’ time it was a highly controverted matter owing to the authority of Catharinus and Salmeron.

Sayrus warmly defends the necessity of an internal intention against Catharinus and against his old patron Cardinal Allen—“*vir alioquin doctissimus et doctrinae S. Thomae studiosissimus.*”<sup>2</sup> His chief reason, as in defending the physical causality of the Sacraments, is the connection between the Sacraments and Christ Our Lord, from whom as “*instrumenta disjuncta*” they have the efficacious power of causing grace; therefore the external action must not only be properly performed, but it must be submitted implicitly at least to the movement of Christ. “*Actio illa neque vere humana esset, ut diceretur, neque a tali potestate ministeriali procederet, nisi aliquo modo in aliquem effectum et finem specialem per propriam intentionem et voluntatem ministri operantis ordinata esset.*” He regards the canons of Trent as defining the doctrine in this sense, and likens the external rite without an internal intention to the simulating adoration of the Jews “*Ave Rex Judaeorum.*” It must be remembered, however, that the disciples of Catharinus require besides the external rite the adjuncts in which the Sacrament is usually administered, so that the “*reductio ad absurdum*” that a priest reading in a refectory the account of the Last Supper, would consecrate the bread present, is rather a futile argument.<sup>3</sup>

With Cajetan Dominic Soto and Andrew Vega, he adheres to the evident teaching of St. Thomas in Q. 64, art. 10, Q. 68, art. 7, and to the difficulty arising from Q. 64, art 8, ad. 2, which we have already quoted, he answers “*Non voluisse his verbis D. Thomam excludere internam intentionem ministri, quasi haec necessaria non esset ad sacramenti veritatem . . . sed haec verba protulit ad conscientias hominum sedandas qui alioquin dubii et incerti esse possent an essent vere baptizati.*” It is sufficient that we have a practical certainty of the minister’s intention, and this we have as long as he performs the external act. “*Non enim agit ibi S. Thomas de perfectione sacramenti in re ipsa et simpliciter, sed de perfectione eius quoad humanam certitudinem, ut quis securum se credat de susceptis sacramentis, et etiam satisfiat Ecclesiae, quae quia de occultis non iudicat, veram ibi affuisse ministri intentionem supponit, verumque sacramentum esse ex verborum super materia prolatione iudicat, nisi contrarium exterius exprimatur.*”<sup>4</sup>

1 Summa 3, 64, art. 8, ad 2. 2 Allen “De Sacramentis,” cap. 55.

3 Sayrus Ibid arg. tertium. Everybody appears to use this argument, e.g., De. Smet 1, oc. cit, § 122, 4, c. 4 Ibid, Lib. II., c. iv.

He meets other difficulties in a similar way by arguments drawn either from St. Thomas or Dominic Soto. Thus, for the effective use of an instrument, a pen or a chisel for example, it is sufficient for the principal agent to have the intention ; and in the administration of the sacraments, God is the principal agent and the human minister an instrument. " Respondeo : quaedam enim sunt instrumenta inanimata et huiusmodi non habent ullam intentionem . . . quaedam vero sunt animata et huiusmodi instrumenta non tam moventur quam movent seipsa ad agendum, et requirunt intentionem faciendi secundum imperium agentis principalis, et ita cum minister sacramentorum sit instrumentum Dei, habere debet intentionem conformem principali agenti, scilicet Deo, ut facere intendat quod Christus instituit et intendit Ecclesia."<sup>1</sup>

**The Sacramental Character is impressed on the Intellect.** The theology of Sacramental Character was not clearly expressed until the XII. century, when the whole doctrine of the Sacraments was fully investigated and clarified by the Scholastics, and even at the Council of Trent there were some theologians who were disposed not to define its existence as *de fide*.<sup>2</sup> Before the Council some, as Durandus, regarded character as " *relatio rationis*," others as " *relatio realis*." The Council defined " Si quis dixerit in tribus Sacramentis . . . non imprimi characterem in anima, hoc est signum quoddam spirituale et indelibile, unde ea iterari non possunt, A. S."<sup>3</sup> Seeing that the Council was defining its existence against the errors of Protestants, some authors (*e.g.*, De Smet) think that the Council was not condemning the teaching of Durandus as heretical,<sup>4</sup> although it can no longer be sustained. Sayrus, however, regards it as included in the anathema.<sup>5</sup> The nature of character still remains a matter of discussion. Suarez and Vasquez place it in the *essence* of the soul. Others place it in the *faculties* of the soul : S. Bonaventure in all the faculties,<sup>6</sup> Scotists in the *will*.

Sayrus, following St. Thomas, Cajetan, Melchior Canus, and Martin Ledesma, places it in the *intellect*. " Deus conferendo characterem confert gratiam ad actus divini cultus digne exercendos, unde proxime disponit character ad actiones et receptiones illas sacramentorum quibus Deus colitur ; et proinde cum dispositio poni non debet in subjecto in quo est forma ad quam remote disponit, sed ad quam proxime disponit, utique character non subjectari debet in essentia animae immediate in qua est

<sup>1</sup> Ibid, ad sextum.

<sup>2</sup> Theiner in De Smet, op. cit., p. 50, n. i.

<sup>3</sup> Sess VII., can. 9. Denz, 852.      <sup>4</sup> De Smet, op. cit., § 65.

<sup>5</sup> De Sacramentis, Lib. IV., cap. iv., q. i., art. i.

<sup>6</sup> 4 dist. 6, art. i., q. 3 (Sayrus De Sac. Ibid, art. ii.).

gratia, sed in intellectu in quo est fides, quae est principium cultus divini, ad quem character ordinatur<sup>1</sup> . . . "Quae ratio confirmari potest ex eo quod omne quod tribuitur homini ratione imaginis principaliter respicit potentiam intellectivam, et ex consequenti effectivam ; nam ex intellectiva habet homo absolute quod sit homo, per voluntatem autem quod sit bonus aut malus. Cum ergo per characterem ordinetur homo ad aliquam operationem absolute, non autem secundum bene vel male operandum, erit potius in intellectu quam in voluntate . . . Cum character fundamentum sit omnium operationum et passionum in ecclesiastica hierarchia, poni debet in ea potentia in qua est fundamentum totius aedificii spiritualis, hoc autem est intellectus in quo est fides, quae totius aedificii spiritualis radix est."<sup>2</sup>

**The Minister, Matter and Form of Matrimony.** Until M. Canus revived the opinion of William of Paris that the priest was the minister of Matrimony, the teaching of theologians was unanimous, following St. Thomas, that the parties contracting were the ministers.<sup>3</sup> M. Canus' teaching is now obsolete, though in Sayrus' time it had many defenders and was followed later by Sylvius and Tourneley. It is the logical conclusion drawn from his opinion that the matrimonial contract is really distinct from the Sacrament, a doctrine held by several of the Fathers at the Council of Trent, as it offered an obvious way of explaining ecclesiastical impediments especially Clandestinity.<sup>4</sup> Billuart, while teaching of course the Thomistic doctrine regarding the minister, holds that among Christians it can be a valid contract though not a valid sacrament,<sup>5</sup> and the same is taught by Vasquez;<sup>6</sup> it can no longer be maintained by Catholic Theologians.<sup>7</sup>

On this point, which is fundamental in Catholic doctrine, Sayrus is quite clear: "omne matrimonium inter fideles baptizatos legitime contractum est sacramentum."<sup>8</sup> On the further point of the minister, he rejects the teaching of Canus for the traditional doctrine "Post Tridentinum parochus praesens est necessarius (sicut et necessaria est praesentia testium qui tamen ministri non sunt) sed non est per se minister cum non conficiat materiam aut formam . . . unde parochus ita assistens, et eos quodammodo

1 Sayrus De. Sac., op. cit., art. i., p. 401.

2 Ibid, art. ii., p. 403.

3 Billuart Diss. I., art. 6. Summa Theol., Sup. 42.1.1. 45.5.

4 De Smet, De Matrimonio, § 176.

5 De Matrimonio, Dist. I., art. 5, ad. v.

6 Tanqueray Theol. Dogm. II., p. 639.

7 Syllabus Pius IX. Denz, 1769. Codex, Can. 1012, § 1.

8 De Sacramentis, Lib. I., c. ii., art. 7, p. 85.



conjugens (dum ait 'ego vos conjungo' id est 'declaro authentice esse conjunctos') non est proprius huius sacramenti minister, neque verba eius sunt aut fuerunt unquam forma matrimonii ut communis schola IV. dist. 26 docet contra Canum . . . qui putat verba sacerdotis esse formam sed falso."<sup>1</sup> Maldonatus (d. 1583) attempted to conciliate the two opinions by supposing that the priest is the Ordinary Minister, and the contracting parties the extraordinary ministers when a priest could not be had, similar to the accepted doctrine regarding Baptism.<sup>2</sup>

In rejecting Canus' opinion that the priest is the minister of matrimony, he necessarily also rejects its consequence, that the words of the priest are the Form of the Sacrament. While all are agreed that the contract made by the parties is the matter and form of the Sacrament, there is great diversity in determining precisely these essential elements. The famous controversy between the schools of Paris and Bologna, representing the opinions of Peter Lombard and Gratian and more widely still the conflict between theologian and jurist (whether, namely, *consent* or the *use* of marriage constituted the essence of the Sacrament) had long ceased to agitate the schools. It had issued in the accepted doctrine that a marriage "ratum et non-consummatum" was a true marriage, but could be dissolved by solemn vow or papal dispensation.<sup>3</sup> Sayrus of course teaches the almost universal doctrine that "consent" is the essence of the contract, against Michael de Medina (d. 1578), who adhered to the old theory of Gratian.<sup>4</sup> But the further point as to what constituted the matter and form of the contract and therefore of the Sacrament is more involved. He records as many as seven different opinions, and although he does not adopt expressly any particular one (because "res accuratius in Tractatu de Matrimonio a nobis examinatur"—a treatise which he did not live long enough to complete), he gives the first place to the solution of Dominic Soto, which has since become universally accepted, that the words of the contracting parties, or equivalent expressions of consent, are both matter and form under the two-fold aspect of tradition and acceptance.<sup>5</sup> In this place he is concerned with establishing the notion of Sacraments in General and he adds a useful reminder in the presence of such diversity of opinion "Neque enim necessarium fuit ut Concilium Florentinum traderet materiam et formam in particulari, sed ut credamus

<sup>1</sup> Ibid, Lib. V., c. iv., p. 492. Also p. 245.

<sup>2</sup> Prümmer Theol. Moral, III., § 666.

<sup>3</sup> De Smet, De Matrimonio, § 96, § 332, § 204.

<sup>4</sup> De Sacramentis, Lib. I., c. ii., art. 7, p. 52 and 53.

<sup>5</sup> Ibid, c. iii., p. 85.

veritatem sacramenti, satis est quod Christus revelaverit Ecclesiae materiam et formam in generali et in communi, et quomodo matrimonium fieri debet ut verum et legitimum sit."

### Section 2.—De Actibus Humanis.

**The Essence of Objective Morality**, according to Scotus has its foundation in liberty. Other schools while rejecting this, disagree as to what precisely it is which, added to the liberty of an act, also makes it "moral." Is it something real or logical? For Vasquez it is purely an "ens rationis" *i.e.*, an act is moral if it is in conformity with rational human nature.<sup>1</sup> For Thomists it consists in the inclination of an act towards an object in conformity with the eternal law, for in all his actions man must tend towards his last end—God, and all his actions must be rightly ordered to that end.<sup>2</sup> Sayrus in one text appears to adhere to the opinion of Vasquez, "*bonitas moralis actus consistit in convenientia eius ad rectam rationem*" but he is speaking here of the "proximate norm" of morality, the dictate of right reason, which is itself a reflection of the "eternal law" "*Cum enim actus moraliter bonus is sit, qui procedit et dirigitur in finem, prout recta ratio, et lex aeterna praescribit, actus ille dicitur rectus; e contra vero, quando recedit ab ordine rationis humanae, quae est proxima regula, et ab ordine rationis seu legis aeternae, quae est suprema regula bonitatis, erit malus et dicitur peccatum.*"<sup>3</sup>

**In the Concrete no Human Act is Indifferent.** The question is not whether indifferent actions exist in the abstract, but in the concrete and in the individual, where a man's intention and the accompanying circumstances introduce a moral quality. The possibility of an indifferent act in the concrete is another Scotist doctrine adopted by Vasquez.<sup>4</sup> The Thomist doctrine is thus presented by Sayrus, "*Actio moralis habita ratione objecti cum omnibus circumstantiis finis loci et temporis et huiusmodi, si a ratione deliberante procedit, in individuo malus aut bonus erit ut S. Thomas (I.—II. 189) et alii communiter affirmant. Siquidem actus omnis in particulari a ratione deliberata procedens, vel ordinatur ad debitum finem cum debitis circumstantiis vel non; si ordinatur non est indifferens sed sortitur bonitatem ex fine; si non ordinatur ad finem debitum cum debitis circumstantiis,*

1 Prümmer Theol. Moral I., § 105.

2 Billuart De Actibus Hum. Diss. IV., art. 1.

3 Clavis Regia, Lib. II., c. iv., n. 2 and 16.

4 Concina Theol. Christiana Bk. VI., p. 217, attempts to show that the Scotist doctrine is contained in Prop. 8 and 9, condemned by Innocent XI.

eo ipso est malus in individuo quia repugnat rationi rectae, cuius est ordinare in finem debitum id quod agitur. Siquidem dici non potest quod ordinatur ad finem indifferentem, quia impossibile est rationem boni non includi in ratione finis. . . . Dixi si procedat a ratione deliberante; actio enim quae non procedit a ratione deliberata, sed a sola imaginatione, ut cum quis non animadvertens fricat barbam, proprie loquendo, non est moralis aut humanus . . . et consequenter est indifferens, quasi extra genus moralium actuum existens.”<sup>1</sup> He also points out that sometimes even actions which proceed from the imagination are not indifferent, when reason should have foreseen and prevented them as far as possible, e.g., sensual movements which are sometimes at least venially sinful because indirectly voluntary.

**The External Act does not increase the Morality of the Internal Act.** This doctrine is held universally by all except Scotists.<sup>2</sup> “Ratio huius est quia actus exterior non denominatur bonus bonitate tali ex fine, nisi ab illa eadem bonitate quae est in actu interiori voluntatis circa finem . . . per accidens actus exterior actum interiorem meliorem vel peiorem tripliciter reddere potest ut explicat S. Thomas (I.—II. 20. 4) primo secundum numerum, ut si quis bono vel malo fine vult aliquid facere, et tunc quidem non facit, postea vero et vult et facit, tunc enim duplicatur actus voluntatis, et est duplex bonum vel duplex malum. Secundo quantum ad extensionem, ut cum quis vult aliquid facere bono fine vel malo, et propter aliquid impedimentum desistit, alius autem continuat motum voluntatis quousque opus perficiat, tunc quanto voluntas diuturnior est in bono vel malo, tanto peior aut melior est. Tertio secundum intensionem . . .”<sup>3</sup> The external act however must be mentioned in confession.<sup>4</sup>

### Section 3.—Sin.

**The Nature of Mortal and Venial Sin.** Like St. Thomas he devotes an article to showing that the Augustinian definition of sin, “dictum vel factum vel concupitum contra legem aeternam,” is the best one.<sup>5</sup> “In actu humano qui peccatum est duo insunt, unum quod est quasi materiale *dictum factum vel concupitum*, alterum quod est formale *contra legem dei*.” Aversion from God is the formal element of all sin: “Cum enim lex aeterna primo et per se et principaliter ordinat hominem ad finem ultimum, consequenter facit ut

<sup>1</sup> Clavis Regia, Lib. II., c. iv., n. 10, 11.

<sup>2</sup> Billuart De Act Hum Diss IV., art. 8; St. Alphons, Lib. V., Preamb., n. 40.

<sup>3</sup> Clavis Regia, Lib. II., c. iv., n. 14.

<sup>4</sup> Summa de Penitentia, c. xii., n. 11.

<sup>5</sup> Summa I.—II., 71, 6. Clavis Regia, Lib. II., c. v., n. 4.



bene se habeat circa ea quae sunt ad finem, et ideo in hoc quod dicit peccatum esse contra legem aeternam, explicat aversionem a fine aliasque omnes aversiones et deordinationes." Mortal sin he defines with Toletus, "Recessus a regula divina voluntarius, Dei gratia peccantem privans, et aeternae mortis adjudicans." Venial sin is defined, "actum humanum voluntarium inordinatum, qui gratia peccantem non privet, nec aliquem reum poenae aeternae constituit, sed solum temporalis."<sup>1</sup> These definitions express the effect of mortal and venial sin, concerning which all authors are agreed. Both effect in the soul the "macula peccati," mortal sin "simpliciter," venial sin "secundum quid." "Quod si S. Thomas I.-II., 89 art. 1 negat relinqui maculam ex veniali, intelligendus est de macula quam tribuerat Q. 87 art. 1 and 2 peccato mortali, et quae simpliciter reddit hominem maculatum et immundum: siquidem macula venialis, quamvis reddat hominem aliquomodo et secundum quid maculatum, non tamen denominat hominem simpliciter maculatum . . . Erit igitur macula, quam infert peccatum veniale privatio illius nitoris, qui ferventi charitatis usu continetur juxta ea quae tradit I.-II. 89. 1."<sup>2</sup> But regarding mortal and venial sin not from the point of view of their effect, but from the cause on the agent's part, there is considerable diversity as to the essential difference between them.

Scotus taught us that a mortal sin was against a precept, a venial sin against a counsel,<sup>3</sup> an opinion which is rejected by all because in effect it does away with venial sin altogether. A very common way of defining the difference between the two is that mortal sin is "contra legem" venial sin "praeter legem," and these expressions are used by St. Thomas.<sup>4</sup> But as it stands the expression needs explanation, "quia etiam verbum otiosum et furtum leve sunt contra preceptum et contra iudicium rectae rationis . . . quod autem licitum non est aliquomodo prohibitum est, nam eo ipso quod aliquid malum est, est disconveniens et dissentaneum rationi et juri naturali."<sup>5</sup>

Sayrus understands the expression in the sense that a mortal sin is against a precept necessary for salvation and the preservation of charity, venial sin is not: "quo modo intelligi possunt auctores citati cum dicunt veniale non esse contra preceptum sed praeter illud, mortale esse contra preceptum, hoc est mortale esse contra preceptum necessarium

<sup>1</sup> Ibid, n. 4.

<sup>2</sup> Ibid, C. xiii., n. 6.

<sup>3</sup> II. dist. 21, q. 1. Billuart Diss., 8, art. 2, "juxta Scotistas Scotus intelligit de consilio large sumpto pro omni eo quod non est necessarium simpliciter ad salutem."

<sup>4</sup> I.-II. 88, art. 1, ad 1. De Malo 7, art. 1, ad 1.

<sup>5</sup> Clavis Regia, Lib. II., c. xiv., n. 23. S. Alphons., Lib. V., n. 11.

ad conservationem charitatis, veniale autem non item."<sup>1</sup>  
 "peccans mortaliter ponit ultimum finem in creatura seu creaturam magis amat quam Deum . . . hoc est creaturam affectu suo Dei amori praeferit, imo nullo modo Deum in actu eo amat, sed potius creaturam contra Dei voluntatem et preceptum. Atvero per veniale nullo modo constituitur finis ultimus in creatura, quia licet constituamus per veniale finem ultimum in creatura negative, hoc est creaturam diligimus gratia sui et non alterius, non tamen diligimus eam ut finem ultimum, quia opus veniale non contrariatur fini charitatis."<sup>2</sup>  
 This is the argument of Vasquez, expressed in equivalent terms, that mortal sin is concerned with destroying man's relation to his last end, venial sin with the means to the end :  
 "mortale tollit ordinem ad ultimum finem, . . . veniale autem tollit solum ordinem circa media, conservato semper ordine ad finem."<sup>3</sup>

**The Specific Diversity of Mortal Sins.** The Council of Trent teaches that a general confession of sins does not suffice, but that as far as possible it must be integral, that is, every mortal sin must be confessed according to its number and species.<sup>4</sup> Therefore what exactly constitutes sins in different species has been a matter of great discussion. St. Thomas teaches that sins differ in species according to their object.<sup>5</sup> Scotus according to the different virtues to which they are opposed,<sup>6</sup> Vasquez according to the different precepts which they break.<sup>7</sup> Most modern authors accept all three solutions as a criterion of diversity without entering into the discussion as to which is essential.<sup>8</sup>

Sayrus follows St. Thomas, teaching that the ultimate reason for the diversity of species arises from the diversity of the object. "Distinguuntur igitur peccata specie ex objectis, seu ex diversitate objectorum contrariorum diversis virtutibus, circa quae committuntur, ut latius tradit St. Thomas I.-II. 72 art. 1 ; siquidem cum duo ad rationem peccati concurrant, videlicet actus voluntatis et inordinatio a lege aeterna, quorum primum per se intenditur a peccante . . . secundum vero omnino per accidens se habet ad eius intentionem ; unumquodque autem specificationem desumit secundum illud quod est per se, et non secundum id quod est per accidens ; consequens est peccata specie distingui secundum objecta, seu ex objectis, quatenus bono rationis contrariantur . . ."<sup>9</sup> Sins are distinguished according to the

1 Ibid, n. 25.      2 Ibid, n. 26.      Vasquez I.-II., disp. v., c. 1 and 2

3 Ibid, n. 24.

4 Sess. XIV., cap. 5.      Denz, 899.      5 Summa I.-II. 72, art. 1.

6 St. Alphonsus, Lib. V., n. 32.

7 Prümmer I., § 373.

8 e.g., Slater I., c. iii., p. 141.      Génicot I., § 163.

9 Clavis Regia II., c. v., n. 16.

precept which they break, "aliquando . . . non regulariter et ut plurimum."<sup>1</sup> Thus it is not two sins to omit Mass on a Sunday which is also a holiday of obligation as Navarrus taught.<sup>1</sup> The rule that sins are distinguished according to the virtue to which they are opposed is not the ultimate one, because the virtues are themselves distinguished according to their object.

I add here a few rules which are given by Sayrus in order to assist one to arrive at a prudent judgment as to whether a sin is grave or not—they are all drawn from St. Thomas : (i) *Ex conditione objecti magis vel minus repugnantis rationi . . . Hinc S. Thomas docet infidelitatem esse gravissimum peccatum (I.-II. 73, 3) quia immediate contra Deum committitur.* (ii) *Ex dignitate et perfectione virtutis cui opponitur . . . Hinc S. Thomas (I.-II. 73, 4) docet odium Dei esse peccatorum gravissimum, scilicet in genere moris, quia opponitur amoris Dei, qui in genere moris optima operatio est. Dixi in genere moris, siquidem in genere naturae operatio optima est intellectio et visio beatifica.* (iii) *Ex natura et conditione actus peccati, ex quo fit ut ceteris paribus peccata spiritualia graviora sint quam carnalis (I.-II. 73, art. 5).* (iv.) *Ex causa peccati et sic ubi voluntas est maior ad peccandum ibi peccatum est gravius (I.-II. 73, art. 6 ; 77, art. 6 ; 6, art. 7.)* (v.) *Ex dignitate personae peccantis (I.-II. 73, art. 10) quia qui scientia et virtute excellent facilius peccato resistere possunt . . . et propter scandalum.* (vi.) *Ex dignitate personae in quam peccatur. Hinc fit ut maximum peccatum sit peccare contra Deum et secundo contra personam conjunctam Deo ratione virtutis aut officii (I.-II. 73, 9).* (vii.) *Ex nocumento quod peccans sibi aut alteri infert (I.-II. 73, art. 8).* (viii.) *Ex omnibus circumstantiis (I.-II. 73, art. 7).<sup>2</sup>*

**The Precepts of the Natural Law are Immutable and Indispensable.** Similarly universally held against Scotus.<sup>3</sup> He gives the common Thomistic teaching in the *Clavis Regia* and there is no need to give any quotations.<sup>4</sup> The Scotist opinion seems to be an attempt to explain the places in Holy Scripture where God apparently allows the precepts of the decalogue to be broken, *e.g.*, the Israelites despoiling the Egyptians, Abraham being prepared to sacrifice Isaac, or the narration of Osee I., 2. All these points are acknowledged difficulties and he gives the various solutions that have been invented including that of St. Thomas: "dicendum est fornicationem eatenus esse peccatum inquantum

1 *Manuale Confess.*, c. ii., n. 4. *Clavis Regia* Ibid, n. 15.

2 *Clavis Regia*, Lib. II., cap. vii., n. 5-13.

3 Billuart, *De Legibus* Diss. II., art. 4.

4 *Clavis Regia*, Lib. III., c. ii., n. 10-12.



est contra rectam rationem, ratio autem hominis recta est secundum quod regulatur voluntate divina quae est prima et summa regula. Ideoque quod ex Dei voluntate sit, peccatum non est, sicut contra naturam non est quod per miraculum sit, quamvis sit contra communem ordinem naturae. Sicut igitur Abraham volendo filium innocentem ex Dei mandato interficere non peccavit, ita nec Osea ex Dei precepto fornicando; nec talis concubitus dici proprie debet fornicatio, quamvis fornicatio nominetur referendo ad cursum communem."<sup>1</sup>

A point connected with this matter is the possibility of ignorance of the natural law. Following St. Thomas he does not concede the possibility of ignorance of the first principles of the Natural Law, but only of those deductions from it which are known with so much difficulty that even wise and prudent men have erred in regard to them, *e.g.*, telling a lie to save one's life. Moreover, there may, for a short time and in some particular case, be invincible ignorance of the precepts of the decalogue, but generally speaking ignorance of this sort is culpable "nam procedebant ex malitia voluntatis et ex consuetudine peccandi et ex contemptu verae religionis et cultus Dei teste Apostolo Rom. I."<sup>2</sup> In the whole treatise on Laws beginning with its definition, he follows St. Thomas closely throughout.<sup>3</sup>

**A Judge must give Judgment according to the evidence, even contrary to his Private Knowledge.** St. Alphonsus inclines to the teaching of Lessius, contrary to St. Thomas, because in the case where a judge has certain private knowledge of the innocence of the accused, it is intrinsically evil to condemn him, even though from the evidence his guilt is sufficiently proved.<sup>4</sup> The opposite opinion, however, is held by St. Antoninus, D. Soto, Bannez, T. Sanchez and Billuart,<sup>5</sup> and in following it Sayrus calls it "opinio communis." "Debere iudicem tam in causis criminalibus quam civilibus probationes publicas sequi etiam contra veritatem privatim notam . . . quia iudex in iudicando fungitur auctoritate publica a Rege seu communitate accepta et non privata. Ergo sicut id tantum agere debet quod potestas publica illi tribuit, ita quoque iudicare debet juxta ea quae per scientiam publicam et in communitate approbatam sibi constet . . . quia effectus sequi debet naturam suae causae, sed scientia iudicis est quidem effectus publicae auctoritatis . . . Quocirca quamvis iudex privata illa scientia uti possit et debeat ut districtius et exactius discutiat testes, et probationes inductas,

1 Ibid. Lib. VIII., c. ii., n. 5.

2 Ibid. Lib. II., c. ix., 18.

3 Ibid. Lib. III.

4 St. Alphonsus, Lib. IV., n. 208.

5 Billuart De Jure et Justitia Diss. XII., art. 2 and 3.

et hac ratione defectum earum investigare, si tamen adhibita omni diligentia possibili eas repellere nequeat . . . et ita falsitatem publice arguere, eas in ferenda sententia licite sequi potest et debet. Idipsum constat a fine auctoritatis publice . . ."<sup>1</sup> He points out, moreover, that provided the judge is convinced that it is licit for him to act against his private knowledge, he does not act against his conscience in so doing ; on the other hand if he is persuaded that it is illicit then he must act according to his conscience.<sup>2</sup> Sayrus applies this doctrine to all causes, civil and criminal, even those involving capital punishment, nor does he make any distinction in favour of inferior judges.<sup>3</sup> A few further points showing his adherence to St. Thomas will be noticed in the controversies of the next chapter.



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<sup>1</sup> Clavis Regia. Lib., XII., c. viii., n. 13.

<sup>2</sup> Ibid, n. 15.

<sup>3</sup> Ibid, n. 16.

## CHAPTER X.

### SAYRUS' POSITION IN SOME CONTROVERSIES.

Section 1. Sin. Circumstances affecting the gravity of a sin.

Section 2. Theft. Grave matter. The obligation of paying taxes.

Section 3. Restitution. Definition. Lost Property. Personal Injury.

Section 4. Homicide. The intention to kill an unjust aggressor  
Indirect killing of the innocent.

IN the previous Chapter Sayrus' position in a few of the salient Thomistic controversies has been pointed out. The present chapter will illustrate his position in some other controversies and differences of opinion. The difficulty is to decide which subjects to select, for the conviction is born on one especially in reading the authors of Sayrus' time, that there is no opinion—no matter how bizarre and strange—that has not been defended by some theologian at some time or other. The few subjects selected, in order to illustrate his position, are among those which still have an importance at the present day, especially in their relation to the Sacrament of Penance. Numerous questions agitated by contemporary theologians at the beginning of the XVII. century have ceased to have any great significance now, *e.g.*, slavery and duelling. Other matters of outstanding importance are unfortunately not treated by him, as he did not live long enough to complete his work. For example, the controversy regarding the nature of Attrition is not dealt with *ex professo* as he did not complete the treatise "De Penitentia."<sup>1</sup> He says sufficient in passing to show that he rejected the proposition defended by Suarez, Sa, and a number of Spanish Theologians, regarding the liceity of absolution "by letter."<sup>2</sup> It was condemned by Clement VIII. in 1602, the year of Sayrus' death.<sup>3</sup> He does not enter into the controversy but merely states "unde sequitur neque confessionem neque absolutionem fieri posse per procuratorem, neque per nuncium neque per scripturam ita ut mittatur ad confessarium confessio, et vicissim remittatur absolutio."<sup>4</sup>

In the discussion of the following points, special attention has been given to comparing Sayrus' doctrine with the solution adopted by St. Alphonsus.

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1 References : Clav. Regia I., c. vii., n. 3. Summa de Penitentia, c. xiii., n. 2.

2 Döllinger-Reusch, op. cit., I., p. 535.

3 Ferraris Bibliotheca voce Absolvere, art. iii., n. 14.

4 Summa de Penitentia, C. xxii., n. 22.



## Section 1.

**Circumstances increasing the Gravity, but not changing the Species of a Sin.** All are agreed that circumstances of this kind must be mentioned in confession "*per accidens*," *e.g.*, by reason of restitution, or in order to acquaint the confessor with the fact of a habit or an occasion of sin. All are likewise agreed that the confession of these circumstances may be very salutary and may be urged as a counsel. But whether there is an obligation to confess them theologians are not agreed. Nearly all modern theologians following St. Thomas<sup>1</sup> deny that there is any strict obligation since its existence cannot be proved. Suarez and a few others hold that there is an obligation to confess circumstances which notably increase the gravity of a sin, and it must be said that the Catechism of the Council of Trent supports this view: "*etiam illa quae unumquodque peccatum circumstant et pravitatem valde augent.*"<sup>2</sup> The supporters of the first view explain the Catechism of the Council as referring to circumstances which change the species of an act or which have to be confessed "*per accidens*," and the supporters of the second view explain the text of St. Thomas by the familiar device of "*St. Thomas junior.*"<sup>3</sup>

In spite of the fact that the majority of authors, including St. Thomas and St. Alphonsus,<sup>4</sup> are in favour of the first opinion, it cannot be said to be certain, and the common practice of the faithful at least is to confess circumstances which notably aggravate a sin. Sayrus, with his contemporaries Suarez, D. Soto, Sanchez and Henriquez, teaches that circumstances, which notably increase the gravity of an act, are to be confessed, and though he generally follows St. Thomas he is led to depart from him in this instance because of the authority of the Catechism of the Council of Trent.<sup>5</sup> In another text he adds a useful proviso, "*Quia vero huiusmodi circumstantiarum confessio nonnullis scrupulos iniicere potest, et multoties difficulter sciri potest quanta gravitas sufficit et requiritur ut circumstantia gravans et non mutans speciem confitenda sit, hoc totum arbitrio prudentis confessarii, habita ratione penitentis, relinquendum est.*"<sup>6</sup>

## Section 2.—Theft.

**Grave matter in the Sin of Theft.** Of all the subjects discussed by Moralists and Casuists, this question has given rise to more discussions and more differences of opinion than

1 4 dist. 16, q. 3, art. 2.      2 Part II., c. 5, q. 47.

3 Prümmer Theol. Moral III., § 369–372.

4 St. Alphonsus, Lib. VI., n. 468.

5 Clavis Regia, Lib. II., c. iii., n. 1.

6 Summa de penitentia, cap. viii., n. 11.

any other. It so bristles with difficulties and uncertainties that very little practical use has arisen from the attempts of theologians to define mathematically what constitutes grave matter even in a given case. St. Alphonsus on this point has shown extraordinary diligence in collecting the solutions of practically every known theologian.<sup>1</sup> But it is worth noting that although he cites Sayrus consistently in every serious controversy, on this matter his name is not mentioned, because Sayrus declines to discuss what constitutes grave matter in stealing from every class of the community, beggars, labourers, mechanics, moderately rich men, profiteers, etc.

He rejects the teaching of Peter of Arragon and other contemporaries that the quantity of a theft is entirely relative, so that unless grave injury is caused the sum even of £100 is not grave matter—this is “*nimis ampla, laxa et in praxi non sequenda*” . . . “*procul dubio falsa est.*”<sup>2</sup> The opinions are recorded of other contemporaries varying from the extreme rigour of Navarrus and Corduba to the laxity of Arragon, but his own position is that of the older theologians, who left the matter to be determined according to the prudence of the Confessor and the Conscience of the penitent. “*Nulla certa regula statui potest ad infallibiliter judicandum quanam quantitas levis aut graviss sit, ut ex eius ablatione furtum veniale aut mortale committatur: id arbitrio boni et prudentis viri commitendum et relinquendum est, habita ratione circumstantiarum loci, an scilicet regio illa copia auri vel argenti abundet, personarum an dives vel pauper sit, et damni quod consequi solet ex furto rei ablatae.*”<sup>3</sup> This is the rule that underlies his discussion, and when he suggests a sum of money it is merely by way of an example, not, however, defining that it is the criterion of a mortal and venial sin.

(i.) “*Quamvis nulla certa regula dari potest de quantitate necessaria ad peccatum mortale, nihilominus tamen dari potest aliqua pecuniae quantitas tanta, quae per se absque ullae personae respectu causa est in furto peccati mortalis, ut verbi gratia duae vel tres aureae . . . Sicut rationabiliter assignari potest certa aliqua materia, quae ex seipsa secluso alio damno non nisi peccatum veniale censetur, ut unus argenteus.*” If it is asked for what reasons he suggests these sums, the answer is “*quod recta ratio et arbitrium boni et prudentis viri ita judicare solet.*”<sup>4</sup>

(ii.) Regarding the multitude of questions arising from the fact that a theft absolutely small, is relatively large owing to some other circumstances, he teaches, “*quod formaliter non est peccatum mortale furti sed reductive tantum, quia*

1 St. Alphonsus, Lib. III., n. 526.

2 Clavis Regia, Lib. IX., c. xv., n. 11.

3 Ibid, n. 12.

4 Clav. Regia, Lib. IX., c. xv., n. 14 and 15.

gravitas et ratio formalis furti non sumitur ex damno quod per accidens subsequitur, sed ex gravitate rei alienae acceptae secundum se . . . dicitur reductive furtem quia materialiter sumptum damnum illud inferitur mediante illo furto."<sup>1</sup>

(iii.) In the matter of small thefts coalescing so as eventually to constitute grave matter, Martin Navarrus and Emmanuel Sa taught the doctrine afterwards condemned by Innocent XI., "Non tenetur quis sub poena peccati mortalis restituere quod ablatum est per pauca furti, quantumcunque sit magna summa totalis."<sup>2</sup> Sayrus gives the correct doctrine.<sup>3</sup>

He rejects the jurist definition of theft for that of St. Thomas "dolosa usurpatio vel acceptio rei alienae invito domino" and also the jurist distinction between "consulens" and "auxilians" in the matter of co-operation. "Solum videndum est an consilium sit causa totius damni vel partis; item an auxilians sit causa totius damni vel partis."<sup>4</sup>

**The Obligation of Paying Taxes.** The discussion on this matter arises from the difference of opinion regarding the law which imposes them. The *Summa Angelica* (1495) taught that they are all penal laws, and therefore do not bind in conscience; either the taxes must be paid or the penalty for avoiding them suffered instead; it is the doctrine of Sanchez, Diana, Sa, and in these days has a well known defender in Génicot;<sup>5</sup> others distinguish between direct and indirect taxes, holding that only the latter are penal.<sup>6</sup> The arguments for this opinion are of a very slight and unconvincing character except in the case where the laws are manifestly unjust and wrongly incident, and the more common opinion is that the paying of taxes is a matter of commutative justice involving restitution.<sup>7</sup> St. Alphonsus includes Sayrus in the company of Sa and Diana as teaching the laxer opinion, but this is a manifest error. One of the most striking things in Gaudé's critical edition of St. Alphonsus is the number of errors of this kind which it reveals, and this particular one is noted by Gaudé, "Sayrus non citatur a Bossio pro hac parte; et re quidem vera in Clav. Lib. IX. c. xvi., n. 29 tenet ut veriore primam opinionem" (*i.e.*, they are due ex justitia commutativa).<sup>8</sup> The error has arisen, and it is not the only time he is misquoted by St. Alphonsus, through Sayrus' custom of setting out so faithfully the opinion he is combating that at a cursory glance it is taken to be his own doctrine.

1 *Ib.*, n. 15. 2 Prop. 38, Innoc. XI., 2nd March, 1679. Denz, n. 1188. Viva, sub. Prop. 29, Alex. VII., n. xvi.

3 Clav. Reg., Lib. IX., c. xv., n. 22.

4 Clav. Reg., Lib. IX., c. 13. n. 4; Lib. X., tr. ii., c. 12, n. 5.

5 Génicot Theol. Moral I., § 574.

6 Ballerini I., 327. Cf Prümmer II., § 294.

7 St. Alphonsus, Lib. III., n. 616.

8 Gaudé note (e) ad Lib. III., n. 616.



He explains the view of the *Summa Angelica* and *Emm. Sa.*, “qui nimis libere de hac re loqui videtur,” and then explains his own doctrine, “*Communis tamen et verior opinio est asserentium gabellas justas solvendas esse in foro conscientiae et ex natura rei, etiamsi non exigantur, nisi forte eas imponens aperte explicaret aliquando se non velle ita obligare, committereque peccatum furti defraudantes illas et teneri ad restitutionem . . . nec poterit, qui ista defraudavit, nisi illa restituerit, absolvi. Unde falsum est leges istas pure poenales esse et in libera cuiusque optione relinqui, tributum solvere, vel exponere seipsum poenae solvendae. Sed sunt leges vere preceptivae, quibus praecipitur solvi tributum; additurque poena ut homines, qui ut plurimum formidine magis poenae quam virtutis amore ducuntur, cautiores reddantur, et in illis solvendis diligentiores afficiantur.*”<sup>1</sup> The reasons or proofs of this doctrine, which he says is the common teaching of theologians and jurists, are the usual ones taken from *Matt. 22*, “*Reddite quae sunt Caesaris Caesari,*” and the fact that the manifold advantages given by the State in its temporal administration, are provided on the implicit understanding, that the people who enjoy them shall bear their share of the cost. Most authors allow that the “customs” regulations affecting travellers on the frontiers of a country are of a penal nature, and although Sayrus does not mention this distinction it is covered by his proviso, “*nisi forte eas imponens aperte explicaret aliquando se non velle ita (i.e., commutative) obligare.*” One may say that “custom” has made this interpretation universal.<sup>2</sup> *St. Alphonsus*, though adhering to the stricter interpretation, concludes “*Generaliter vero loquendo de omnibus vectigalibus putat Lugo cum Molina, monendos esse populos ad tributa solvenda; sed post factum non esse cogendos ad restitutionem tributi defraudati, si probabiliter sibi suadent, in tanta vectigalium multitudine aliquid injustum solvisse, vel competenter contribuisse ad publicas necessitates.*”<sup>3</sup> Sayrus has nothing corresponding to this reservation, since in discussing the question he takes for granted that the taxes are just. For the rest, in an age when laxity of opinion was steadily increasing, his severe teaching is to his credit and makes it all the more astonishing that he is quoted by *St. Alphonsus* as defending the more lenient view.

### Section 3.—Restitution.

Sayrus devotes 250 pages in the *Clavis Regia* to a full discussion of all the questions connected with restitution. In

<sup>1</sup> *Clavis Regia*, Lib. IX., c. xvi., n. 30, 32.    <sup>2</sup> *Prümmer I.*, § 295.

<sup>3</sup> *St. Alphonsus*, Lib. III., n. 616, ad finem.

this section a few of the more salient points have been chosen, and those on matters which have a well defined controversial aspect, for in this subject there is the widest diversity of opinion among authors who are generally in accord on other subjects.

**Definition.** He defines restitution with St. Thomas: "est actus justitiæ commutativæ quo damnum proximo datum reficitur, seu quo quis in locum vel jus rei sibi debitæ restituitur" or "restituere est iterato aliquem in possessionem vel dominium suæ rei statuere."<sup>1</sup> The latter is "definitio per quid nominis," the former "per quid rei" and is wider in its scope since it embraces not only material goods but honour, good name, etc. It is commutative as distinguished from legal and distributive justice. "Triplex reperitur ordo, scilicet partium inter se, totius ad partes, et partium ad totum, et sic triplex est justitia legalis distributiva et commutativa; legalis ordinat partes ad totum, distributiva ordinat totum ad partes, commutativa vero partes inter se ad equalitatem."<sup>2</sup> Against Scotus he teaches that satisfaction is also a matter of commutative justice. They differ in the following ways: satisfaction pre-supposes an injury, restitution does not (*e.g.*, in contractu mutui et depositi); restitution can only be made to man, satisfaction also to God; by satisfaction the punishment due to sin is remitted, by restitution it is not—hence he ridicules as "fabulosum" the popular idea (found also in the *Summa Angelica*) that a soul is retained in Purgatory until restitution is made by his heirs.<sup>3</sup>

He harmonises the two controversies whether restitution is *necessitate medii* or *necessitate precepti*, and whether the precept is affirmative or negative. "Est necessitate precepti quando scilicet fieri potest et is a quo res accepta est ea caret."<sup>4</sup> He explains the fact that St. Thomas discusses whether restitution is necessary for salvation, since a person who is unjustly detaining a thing is in a state of sin. The discussion whether it is a negative or a positive precept "potius est de nomine quam de re." Its form is positive but it implies a negative precept forbidding the retention of something which belongs to another.<sup>5</sup>

**Restitution of Lost Property.** The disputed point is whether the finder can retain the property whose owner cannot be traced, or whether he is bound to give it away in alms. That a possessor in bad faith is bound to give the goods to the poor if the owner cannot be found is the common

1 II.-II. 62, art. 1. *Clavis Regia*, Lib. X., t. i., c. i., n. 1 and 4.

2 *Clavis Reg.*, ib., n. 4.

3 *Ibid.*, c. ii. Angelus voce "Exequutor" n. 23. Some editions have altered the text in an orthodox sense.

4 *Clav. Regia*. *Ibid.*, C. iv., n. 2.      5 *Ibid.*, n. 6-9.

doctrine with St. Thomas II.-II. 62, art. 5, ad. 3.<sup>1</sup> But whether the person who has found some lost property, the owner of which cannot be traced, is to be considered a possessor in bad faith, is disputed. Scotus Vasquez, Sa, and Ledesma, hold that it can be kept by the finder, Lessius and Cajetan that it must be given away in alms. St. Alphonsus teaches that when the circumstances—lapse of time, etc.—argue that the owner has ceased to regard it as his property it may be kept by the finder, otherwise it must be given away in alms, as this is the presumed desire of the owner.<sup>2</sup> Sayrus teaches that though it is a “counsel” to devote the property to the poor there is no precept of any sort to this effect, and provided that proper care has been taken to discover the owner, it may be retained by the finder.<sup>3</sup> On the further point of demanding a reward for the restitution of lost property, this is illicit, since an obligation which is due in justice, or indeed in any other virtue, must be performed “gratis.”<sup>4</sup>

**Restitution for Personal Injury.** All are agreed that where an injury has no monetary equivalent, *e.g.*, a facial disfigurement, restitution must be made for any real loss accompanying the injury, *e.g.*, the doctor's bill; also damages assessed by a judge must be paid.<sup>5</sup> But the question is whether restitution is due in conscience in order to compensate an injury, when no compensation of the same species is possible. St. Alphonsus calls the negative opinion more common and more probable, and it is held by Bannez, Lessius, T. Sanchez and de Lugo.<sup>6</sup> Sayrus, resting entirely on the authority of St. Thomas, answers in the affirmative with Cajetan Salon and M. Ledesma. “In quibus non potest restitutio fieri secundum speciem, debet fieri recompensatio, qualis possibilis est, ad arbitrium prudentum, et dat St. Thomas exemplum (II.-II. 62, 2) in eo qui abstulit alicui membrum, additque restitui debere equivalens in pecunia, vel in honore . . . Siquidem ad justitiam commutativam pertinet non solum reddere justum quod consistit in indivisibili, id est equivalens, verum etiam possibile, in eodem genere rerum aut in alio, juxta doctrinam S. Thomae et aliorum ubi supra post Aristotelem 5 Eth. c. 5 . . . Et qui debitor est mille aureorum quamvis non habet nisi centum, tenetur tamen ad restitutionem quantum potest . . . Sicut nec ex eo quod Deo equivalens reddere non possumus, inferre licet quod nihil Ei reddere debemus . . . De jure ergo naturae est ut pro damno corporali vitae aut membrorum fiat compensatio, ad arbitrium viri boni et prudentis.”<sup>7</sup>

<sup>1</sup> Clav. Regia, Lib. X., t. ii., c. ii., n. 1.

<sup>2</sup> St. Alphonsus, Lib. III., § 603.    <sup>3</sup> Clav. Regia, Ibid., n. 26.

<sup>4</sup> Lib. X., t. v., c. iii., n. 2 and 22.

<sup>5</sup> Prümmer Theol. Moral II., § 204.

<sup>6</sup> St. Alphonsus, Lib. III., n. 207.

<sup>7</sup> Clavis Regia, Lib. XI., c. ii., n. 8-12.



A similar point in which he follows St. Thomas against Lessius, is the obligation of paying the price stipulated in a contract of an evil nature, *e.g.*, hired assassins, judicial bribery, *after* the deed is accomplished, but not *before*. "Satis enim est ut usus corporis quem alteri concedit, sit vere pretio aestimabilis, quamvis aliunde usus ille sit illicitus . . . Postquam peccatum commissum est exigens pretium exigit actum iustitiae."<sup>1</sup>

#### Section 4.—Homicide.

**The intention of killing an unjust Aggressor.** It is not possible to discuss Sayrus' doctrine on the innumerable questions arising out of this matter; he is free also from any implication in the propositions condemned by Innocent XI. and Alexander VII.<sup>2</sup> But there is one point which is somewhat distinctive and is not generally mentioned by the authors. Taking for granted the requisite circumstances and the value of the thing defended (life, chastity, etc.) making it licit to kill the aggressor in self defence, the question is whether one may intend to kill directly, or whether it is merely licit to defend oneself directly, the aggressor's death being merely "per accidens" and "praeter intentionem." This is one of the few points where he feels compelled to depart from the teaching of St. Thomas<sup>3</sup> and holds with Alexander of Hales, Navarrus and Lopez that it is licit to intend to kill the aggressor, not as an end but as a means. "Iste actus procedit ex intentione finis, sicut omnis electio mediorum oritur ex intentione finis. Cum igitur ad efficacem volitionem finis, necessario sequitur electio medii quod iudicatur necessarium ad talis finis consecutionem, et in casu proposito efficaciter volita sic defensio et conservatio vitae propriae, iudicaturque ut medium necessarium ad illam occisio invasoris . . . Consequenter poterit hic ex intentione et directe eligi occisio tanquam medium necessarium ad vitae conservationem. Quamvis igitur absolute et simpliciter intendi nequeat occisio proximi, ita ut ibi sicut in fine sistat, potest tamen illam ut medium ad finem propriae defensionis intendere." Moreover, the contrary opinion seems to him impossible in practice and "nimis metaphysica." "Absurdum est omnino videtur licite sui defendendi causa ipsum actum externum exercere, cuius effectus per se sit alterius mors, et tamen non velit nec intendat actum illum externum."<sup>4</sup>

**Indirect killing of the Innocent.** The crux in this matter is the question of the unborn child whose presence is endangering the life of the mother. In order to bring it within the limits of discussion we will pass over the agitated question of the time of animation, and also the question of the mother's

1 Ibid, Lib. X., t. v., c. iii., n. 32, seq. St. Alphonsus "probabilior" Lib. III., c. iii., n. 712. St. Thomas II.—II. 32, art. 7.

2 Denz. 1181–1183, 1118; St. Alphons. III., n. 380 seq.

3 Summa II.—II. 64, 7. 4 Clavis Regia, Lib. VII., c. 10, n. 20.

duty to prefer her own death rather than allow the infant to die unbaptised. The broad and essential point at issue, and a point which was freely discussed up to recent times, is whether to save the life of the mother it is licit directly to cause the death of the child. All the complicated questions connected with this matter, and the medical details involved, can ultimately be reduced to this. The simple principle that it is always illicit to kill the innocent directly, becomes obscured by introducing the further question of the mother's right to live, or the supposition that the child will die in any case if the mother is allowed to die. Theologically speaking these questions are beside the point, but they have so confused the issue, that, right up to 1884, it was held by some authors (e.g., Ballerini), that in the case where both mother and child were likely to die, it was licit directly to kill the child. A series of decisions of the Holy Office beginning with that of May 24th, 1884, condemned this teaching as immoral.<sup>1</sup> St. Alphonsus, while adhering to the correct teaching, regarded its opposite as probable.<sup>2</sup> In Sayrus' day the doctrine since rejected was taught by Sanchez.<sup>3</sup>

The chief reason given by these authors is that the child is an unjust aggressor! Sayrus in teaching the orthodox doctrine in all the various points connected with the matter, keeps always to the main principle, that any means of saving the life of the mother may be employed which are directly for that purpose, but never those which are directly the cause of death to the child. "*Licetum esse ante animationem foetus medecinam talem sumere quæ suapte natura magis ordinatur ad sanitatem quam ad mortem*" "*qui directe predictum abortum procuraret etiam ante animationem mortaliter peccaret*" "*si medicus probabiliter judicet quod etiamsi a medicamento absterneat, puer non potest in lucem suscipi, sed necessarium est cum matre eam mori, tunc poterit sanguis minui et alia medicamenta sumi, dummodo sit principalior et sua natura causativa sanitatis, ut alterum ex duobus salvetur, nec divinae ordinationi resistendum*" "*Dixi si principaliter sit causativa sanitatis, quia si medicina suapte natura sit tam mortifera, quam salutifera, jam jamque constat quod tam mater quam foetus morietur, si tamen mater talem medecinam sumat eventus est in dubio, utrum foetus vel mater salvabitur; in tali casu illicitum est paegnanti talem porrigere medecinam . . . quia porrigens huiusmodi medicamen in hoc casu exponit se periculo occidendi matrem vel foetum vel utrumque.*"<sup>4</sup>

1 Denz, 1889-1890. Ferraris Biblioth. Supplementum Bucceroni v. Craniotomia. Even after these decrees O'Malley and others defended the liceity of the condemned doctrines in the case of Ectopic Gestations. O'Malley retracted in 1906, "Ethics of Medical Homicide." 2 St. Alphonsus, III., n. 394.

3 De Matrim. IX. 20.9, where other supporters of the doctrine are quoted.

4 Clavis Regia, Lib. VII., c. xii., n. 19-24.

## CHAPTER XI.

### SOURCES AND METHOD.

Section 1. Fathers and Councils. Faithful and honest use of sources. Trent and the Catechism. Fathers. Gregory the Great.

Section 2. Scholastics. St. Thomas. Cajetan. Vasquez. The Trent Theologians : Melchior Canus and Dominic Soto.

Section 3. Jurists. The connection between Moral Theology and Canon Law. Conflict between Theologians and Jurists—Gobat. Sayrus as a Jurist and as a Theologian.

Section 4. Summists and Casuists. The use and misuse of Casuistry. Theory and Principles essential—Lehmkuhl, S. J. Sayrus as a Casuist.

Section 5. Sayrus' method : Practical, Theoretical, Canonical. Positive and Objective. Controversial.

#### Section 1.—Fathers and Councils.

THE custom of indicating the bibliography and sources of information in the compilation of any serious book has grown to an enormous extent in these days, when so many authorities are quoted that it is not always possible to detect which are the real sources the writer has used, and which are the ones he has inserted for the sake of appearances. Moreover, there is a suspicion, often becoming a certainty on examination, that quotations are not always first hand but are copied at second hand from some author, who, in turn, has got them from somebody else ; in this way errors and misquotations are perpetuated. Sayrus has this advantage, at any rate, that he goes to the original sources : “ . . . nihil in toto hoc opere contineri, quod non sit ad amussim cum ipsis auctoribus, quorum opera et auctoritate hic utor, iterum atque iterum collatum et ex ipsis fontibus desumptum. Illud namque in studiis meis, etsi nonnunquam mihi satis molestum et laboriosum esse experior, observare soleo, ut aliis prius fidem non habeam, quam authores ipsos consuluerim. Ignavi etenim hominis est, rivulos plerumque turbidos confectari, cum fontes ipsos limpidissimos aequè commode, aut sine magno labore adire et gustare possit. Unde nunquam mihi quorundam affectata eruditio placuit, qui non aequa aestimatione res ponderantes sed popularem aurem sectantes, eorum sententias sine delectu referunt, quos ipsimet non legerunt, sed vel ex dictis vel codicibus aliorum, saepiusque fide non bona, collegerunt.”<sup>1</sup>

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<sup>1</sup> Preface to “ De Sacramentis.”



Certainly all the quotations and references that I have been able to verify are correct and exact.

"Primo omnium Catholicorum sententias ad sua principia revocavi nempe ad Scripturam Divinam, Conciliorum decreta, Patrum consensionem."<sup>1</sup> Among the three hundred authors cited at the beginning of the *Clavis Regia*, I have tried to pick out those more frequently and consistently used. The Council of Trent, of course, is repeatedly referred to, as the effect of its disciplinary reforms were well operating at the time Sayrus was writing. More noticeable is the constant use he makes of the "Catechism of the Council of Trent." This work, ordered by the Council, was undertaken after its closure by a Commission presided over by S. Charles Borromeo, and in its definite form is chiefly the work of three Dominicans, Francois Fureiro, Leonard Marino, and Giles Foscari.<sup>2</sup> Intended as a manual for parish priests, it is unequalled as a positive statement of Catholic Doctrine unencumbered with controversial matter.

Every Catholic author always professes his determination to follow in the steps of the fathers; none the less the patristic argument in most manuals of theology is the most unsatisfactory, generally being equivalent to a few well-worn extracts separated from their context, or to a list of names and dates with references to Migne, or vaguer still "omnes patres consentiunt." With the true Benedictine tradition Sayrus makes a frequent and constant use of patristic literature, but there is a golden mean to be observed. It would be useless to expect to find moral controversies agitated in the XVII. century treated by the Fathers of the VI. and VII. Some have even tried to discover Probabilism in the Fathers.<sup>3</sup> Sayrus only quotes them when they treat, *ex professo*, the subject under discussion; for example, "De Officiis" of St. Ambrose, or "De Mendacio" of St. Augustine. The most frequently quoted of all is the "XLV., Lib. Moralium in Job" and "Cura Pastoralis" of St. Gregory the Great. In moral matters these two works have always exercised the greatest influence, and their author being the Apostle of his own country, and one of the most illustrious sons of St. Benedict, his importance for Sayrus was accentuated. In fact, a passage of St. Gregory may be taken as one of Sayrus' guiding principles: "Nonnulli ita districti ut omnem mansuetudinem benignitatis amittant; et sunt nonnulli ita mansueti ut perdant districti jura regiminis . . . Regat ergo vigor mansuetudinem et mansuetudo ornet vigorem."<sup>4</sup>

<sup>1</sup> Ibid.

<sup>2</sup> Vacant. Dict. Cath., art. "Catechisme," col. 1918, Vol. II.

<sup>3</sup> Supra, p. 81.

<sup>4</sup> Job, Lib. XIX., cap. 29, n. 30 (Ziegelbauer II., c. i., § 4), Cf Preface "De Sacramentis" for his use of the Fathers especially in points of controversy with Protestants.

## Section 2.—Scholastics.

The fidelity of Sayrus to the doctrines of St. Thomas Aquinas has already been noted in a previous chapter. The "De Sacramentis" is practically a Commentary on the text of St. Thomas, and it is no exaggeration to say that he is quoted on every page of the "Clavis Regia," and has always the first place in the list of authors from whose teaching he draws; first and foremost he is a disciple of St. Thomas. The opinions of Scotus are recorded and nearly always rejected. Alexander of Hales and St. Bonaventure are quoted very frequently, but, as a general rule, in his list of authors who support the doctrine he is defending, he passes from St. Thomas to the later scholastics. Cajetan takes a very prominent place, though he combats his doctrine on various points, *e.g.*, "motus sensualitatis primo primos et inordinatos esse peccata saltem venialia."<sup>1</sup> Suarez is used comparatively very little; his best known work, "De Virtute et statu religionis" was not published at the time Sayrus was writing the Book on Vows in the *Clavis Regia*.<sup>2</sup>

Vasquez, his old professor, is naturally used very considerably; this undeniably profound theologian—called by some the Spanish Augustine<sup>3</sup>—shows occasionally an originality of thought which has led him into curious departures from Thomistic doctrine. There was a very short-lived "school" of Vasquez, among whose followers Luis de Torres S. J. (d. 1635) is the best known,<sup>4</sup> but Sayrus is certainly not of it; he opposes Vasquesian doctrines though rarely by name and *ex professo*, *e.g.*, the Natural Law is rational human nature considered in itself,<sup>5</sup> Baptism does not pardon the guilt of sin but only the punishment.<sup>6</sup> Other essential tenets of Vasquez are not touched upon, as Sayrus did not write on Grace and Predestination. Bart. Medina is, of course, very largely used owing to his position as the first definite formulator of Probabilism; to what extent and with what reservations Sayrus has identified himself with these principles has already been noted in a previous chapter.

As the Canons and Decrees, and the Catechism of the Council of Trent, are one of the chief sources continually quoted by him in matters of faith, so also the great theologians who were largely responsible for framing its decrees are his chief authorities in matters of dispute not absolutely settled by the Council. Salmeron and Lainez are not used to any

1 *Clav. Regia* VIII., c. vi., n. 8. Cajetan I.-II., 74, art. 3.

2 Suarez T. XII.-XV., Venice edition, 1740-1757. *Clav. Reg.*, Lib. VI.

3 Hurter *Nomenclator* III., 386.

4 *Ibid* III., 883. *Cath. Encycl.*, art. "Vasquez."

5 Cf *Supra*, p. 151.

6 *De Sacramentis*, Lib. I., cap. ii., art. 4.

extent as they were concerned chiefly with dogmatic theology. Andreas Vega is used more frequently. Ambrosius Catharinus is only quoted in rejecting his opinion on the sufficiency of an external intention in the minister of the Sacraments.<sup>1</sup> Melchior Canus' classical work "De Locis" is continually employed; as we have already seen, Sayrus rejects his opinion that the matter and form of Penance are in the words of absolution, as well as his singular view that the priest is the minister of Matrimony.<sup>2</sup> But of all the Trent theologians, Dominic Soto is the one chiefly used and followed, not only in "De Justitia et Jure," but also in the "Commentary on the Sentences." This theologian, who is more responsible than any other for framing the decrees of the Council, is certainly Sayrus' greatest authority among the scholastics in interpreting the mind of St. Thomas.

### Section 3.—Jurists.

The fusion between Moral Theology and Canon Law is one of the most exasperating phases of the modern treatment of the subject. It is quite evident that a priest engaged in missionary work is not properly equipped unless he has at least a moderate knowledge of both sciences; he could not, for example, administer the Sacrament of Matrimony validly without the knowledge of recent canonical enactments. From the earliest times theologians, and especially Bishops, were supposed to be skilled in Canon Law as well as Theology; the disciplinary decrees of the Council of Trent were framed by great theologians and one of the most famous of them has written "*Theologis qui Pontificum canones ignorant, nimis multa desunt ad usus theologiae necessaria.*"<sup>3</sup>

The trouble has arisen not through the same person being skilled in both sciences, but through applying the principles of the external forum to the internal forum of conscience. Even at the time of St. Thomas, Moral Theology began to be treated in a juridical manner, and with the gradual decline of theology in the later scholastic period, the Canonists took possession of the whole subject. By the XVII. century the application of juristic reflex principles to the solving of cases of conscience became almost universally accepted. Neither was the evil all on one side. The disciplinary decrees of the Council of Trent secured their effect in raising the educational status of the clergy, and a course of theological instruction suited to the needs of parochial clergy, was provided in Cathedral schools and colleges. The Canon Law essential for the work of the

<sup>1</sup> Supra, p. 144.

<sup>2</sup> Supra, p. 149.

<sup>3</sup> Melchior Canus "De Locis," lib. viii., c. 6.



confessional, where the external and internal forum coincided, was given by the Moral professor, since only a fraction of the clergy had an opportunity of taking separately a course of Canon Law.<sup>1</sup> Hence a conflict between jurists and theologians, which broke out into an open war a few years after Sayrus' death. The jurists imagining their preserves to be invaded, held that theologians should either take a degree in Canon Law, or leave entirely to the Canonists all questions connected with Ecclesiastical Law. A good statement of the case for the theologians may be gathered from "*Vindiciae Theologicae quibus adversus nonnullos Jurisconsultos defenduntur et in sua possessione conservantur Theologi scribentes de materiis alterutro jure comprehensis*," a polemic published at Fribourg by Fr. Gobat S. J. in 1654. The ideal would certainly be for the two subjects to be taught quite separately,<sup>2</sup> but as that is not possible except in Universities, where a course of speculative theology can be taken side by side with a course of Canon Law, the state of things at present is very much what it was in the XVI. and XVII. centuries; every Manual of Moral Theology, even the most recent, is a mixture of Theology and Canon Law. That being so, the dangers inherent in this method can only be averted by keeping clearly distinct the principles of the respective subjects, arising from the difference between the internal and the external forum.

A very large part of Sayrus' work is concerned with Canon Law, as will be seen from the list of his published writings, and his authority as a jurist was very considerable. Gobat, in the polemic already referred to, mentions him as a typical example of a theologian using his canonical knowledge for the practical treatment of Moral Theology, and says that although he had no degree in Canon Law he was as good as any three canonists put together.<sup>3</sup> Two of his works are entirely canonical, "*Thesaurus Casuum Conscientiae*" and "*Decisiones Casuum Conscientiae*." The first would be called more fittingly "*De Censuris Ecclesiasticis*." It deals with Irregularities, Suspension, Interdict and Excommunication, a large part being devoted to the censures of the Bull "*In Coena Domini*." All this matter has been so changed and modified in the course of time that this treatise is no longer of any practical use. The same may be said of the second book, "*Decisiones*," which is a commentary on the well known "*Consilia*" of Navarrus, and covers in a succinct form the chief dispositions of Canon Law not contained in the former work on Censures.

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1 Gobat : *Vindiciae*, n. 242 seq.

2 Cf Prümmer. Preface "*Manuale Juris Eccles.*," 1920.

3 Gobat : *Vindiciae*, n. 476.

The "Clavis Regia," which has been chiefly cited in the course of this dissertation, entirely corresponds to the modern Manual of Moral Theology "De Principiis" and "De Preceptis." Points connected with Canon Law are treated as they appear in the various cases, but the formal object of Moral Theology is never confounded with the formal object of Canon Law, and this is one of the characteristics of Sayrus which ought to be stressed. He goes out of his way expressly to note the difference between the two. A canonist's definition of *theft* is different from a theologian's,<sup>1</sup> also their notion of *fama*.<sup>2</sup> There are various differences in the obligation of restitution on the part of one who has co-operated in damage,<sup>3</sup> and in invincible ignorance arising from insufficient promulgation of law.<sup>4</sup> In a word "non idem esse culpam gravem apud juristas, quod est culpa mortalis apud theologos, nec idem levem apud illos quod venialis apud nos. Contingere enim potest ut juridice fit culpa gravis et lata, quae tamen non fit culpa apud Deum . . . E contra potest esse peccatum mortale Theologice quod tamen juridice non sit nisi levis, aut levissima."<sup>5</sup> It is precisely on this point that he frequently departs from the teaching of Navarrus, who, as a general rule, is one of his chief authorities and continually quoted: *e.g.*, on restitution,<sup>6</sup> homicide,<sup>7</sup> and sin.<sup>8</sup> Canon Law therefore is one of the chief sources from which Sayrus drew, and even St. Thomas makes frequent use of the same material. Sayrus' object was to provide a manual which would embrace between its covers everything essential for the right exercise of the priestly ministry, especially in the confessional, but in doing so, he avoided the pitfalls which have often ensnared authors who deal with both subjects in one manual, for he understood the limitations of positive law and its juristic principles in the internal forum of conscience.<sup>9</sup>

#### Section 4.—Summists and Casuists.

The enormous output of casuistical literature is one of the characteristics of the theology of the post-Tridentine period. The Casuists were the lineal successors of the Summists of the XIII.-XV. centuries, and had many things in common with them; for one thing, their chief object was to provide something, whose practical use to the clergy would be more apparent than the speculative works of the scholastics. There is no sort of doubt that the Summa of St. Thomas contains the

1 Clavis Regia, Lib. IX., c. xii., n. 3.      2 Ibid, Lib. XI., c. iii., n. 3.

3 Ibid, Lib. X., t. ii., c. ii., n. 5.

4 Ibid, Lib. III., c. v., n. 3.

5 Ibid, Lib. X., t. iii., c. i., n. 10.

6 Ibid, X., t. v., c. 3, n. 8; c. v., n. 23; Lib. XI., c. ii., n. 10.

7 Ibid, Lib. VII., c. ix., n. 24-29.

8 Ibid, Lib. II., c. v., n. 3.

9 Cf Supra, p. 78, *re* Probabilism.

principles on which all cases can be solved, but the authors of the "*Summae Confessoriorum*" were writing for clergy who, either from lack of interest or lack of intelligence, did not feel equal to profound study; in so far, therefore, as they were a concession to clerical ignorance they must be regarded as an evil, but on the other hand—granted the circumstances of the time—they supplied a real need in assisting confessors to distinguish between sins, and to solve the more common cases recurring in the Confessional. They were generally arranged in alphabetical order and were in fact a catalogue of sins.

The Casuists of the post-Tridentine period resembled the Summists in so far that they paid more attention to individual cases than to the principles underlying their solution; but they were much more complicated and intricate, and far from being a simple summary for the uneducated, they were more the concern of professional theologians. It is a far more pleasant thing to read the *Summa* of St. Thomas than to follow the tortuous arguments through a bewildering variety of cases, possible and impossible, and the lists of authors "pro" and "con," in a casuist like Sanchez or Reginaldus. All will admit that the misuse of casuistry can have a most pernicious effect on the study of Morals, and retard rather than assist the cause of true science. But the common objections brought against all casuistry by certain non-catholic writers, will not bear examination. Döllinger-Reusch, for example, repeats the accusations of Hirscher,<sup>1</sup> that the casuist sees only individual things, and has no uniform and universal principles, that the mind is oppressed and confused by the multiplication of duties and obligations which they reveal, that the method encourages exterior "righteousness" without the interior spirit, and that the conscience becomes falsified by the distinction between venial and mortal sin which is so often insisted upon by the casuist.

These accusations may indeed be true of the very meanest casuist, if there be such, who would essay to solve cases without principles, who makes his casuistry an end in itself instead of a means of illustration, and whose prime object is to show how to escape one's obligations. That casuistry has been overstressed in the past and carried to extremes may be admitted, but on the other hand it is difficult to see how Moral Theology can be taught to young students with any practical utility, if the method of employing cases to illustrate the principles is entirely banished. Moral Theology is largely a training of the practical intellect, and its governing principles are ascertained

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1 Döllinger-Reusch, op. cit., p. 18.



and studied with a view to their appliance to individual cases that may arise in the Confessional or elsewhere in real life. Young priests, in England at any rate, are placed immediately after ordination with full faculties to work in the large cities. It is inconceivable that they can be properly fitted for their work unless they have acquired, by familiarity with hypothetical cases, the faculty of applying the principles of their Moral Theology to the real cases that appear. This is the key to the question. Principles first, Casuistry only to illustrate them; if the order is reversed and the study of cases made their chief concern, then the method can be nothing else than pernicious and dangerous. If it is a question of choosing between one or the other, then without the shadow of a doubt, six months' study of theoretical principles without casuistry, is better than ten years casuistry without principles.

And here, unfortunately, we find ourselves in contradiction with a very well-known modern author, who says "When time and leisure are wanting to add ample theoretical explanations to an extensive casuistical drill, we should not criticise him who would, under these circumstances, insist on the latter at the expense of the former; it is more necessary in actual practice."<sup>1</sup> The idea of adding theory to the casuistry seems a reversal of the natural order of things, for the use of casuistry at all is only justified as a means of explaining and illustrating the theory.

It has been necessary to make this little apology for "casuistry" as the method is very largely employed by Sayrus, and reading the titles of his books "*Thesaurus Casuum Conscientiae*," etc., one might form the conclusion that here was a casuist of the deepest dye. I think, however, it will be evident from what has been already said in the course of this dissertation, that these titles are somewhat misleading, and that his theology is sound because he is concerned first with theoretical principles. Following the custom of his age he dealt largely in casuistry also, but every case rests on solid theoretical and Thomistic principles. Although his name is largely forgotten he bears comparison with any of the great scholastics of his time; and it is worthy of notice that some of the undoubted "speculative" theologians also wrote books of casuistry as Molina, Vasquez, and P. Ledesma. Even the smallest of Sayrus' works—the "*Summa Sacramenti Penitentiae*"—is concerned chiefly with positive doctrine in the abstract. The works of other casuists therefore form a very considerable part of the sources from which he drew. Navarrus must certainly have the first place in importance and he does not often depart from his judgment; among the

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1 Lehmkuhl, S. J., in "*Catholic Encyclopedia*," art. Moral Theology

innumerable writers with whom he generally finds himself in agreement are Lopez, Ant. Corduba, Toletus, and Graffius; he frequently departs from Valentia, Angles, and Aragona.

Among the Summists the "Summa Sylvestrina" and the "Summa Pisana" are in most frequent use, and, of course, the classical works of St. Antoninus and St. Raymond of Pannafort.

### Section 5.—Sayrus' Method.

From this indication of the sources from which he drew, an idea can be formed of his object and method in writing. His purpose in the first place was to provide a theology which would be of practical utility to priests in their missionary work, especially in England, "in tanta librorum penuria, ob direptas catholicorum bibliothecas, in tanta rerum perturbatione, tam incertis sedibus, fugis inopinatis, rumoribus, terroribus, carceribus, tormentis."<sup>1</sup> It is true handbooks of this kind were already in existence in the various "Summae," but Sayrus knew the evil and insufficiency of these books, which were little more than a list of sins, and generally lacking solid theoretical foundation. The works of Sayrus, and especially the "Clavis Regia," supply this defect by combining the consideration of practical cases with a very full and complete speculative and theoretical foundation. The examples given in the two preceding chapters are sufficient indication of this fact, and show moreover that these theoretical principles are drawn from their fountain head, the Summa of St. Thomas.

Further, also with a view to the practical utility of his work, it contains a large element of Canon Law; some books (*e.g.*, *Thesaurus Casuum . . . De Censuris*), being concerned entirely with this aspect, the *Clavis Regia* uniting Theology and Canon Law in the manner to which we have grown accustomed in modern manuals. The volumes, treating so many subjects together, are sufficiently large—the "Clavis Regia," for example, being a folio of 1,034 pages; but by excluding trifling and useless discussions, they are, in comparison with the enormous bulk of the works of some of his contemporaries, not so large as to be an encumbrance to a travelling missionary priest. "Quoniam vero intentionis nostrae est, fidelium conscientiis in hoc quod suscipimus opere, pro viribus nostris subvenire, non putavimus convenire orationis ubertatem sectari, sed nudam sinceramque veritatem stylo simplici proprio, ac resolutionis et brevitatis pleno (prout nobiles multi theologi ac prudentes scriptores

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1 Preface "Thesaurus Casuum."

consueverunt) declarare, eandemque semper tum gravissimorum virorum auctoritatibus confirmare tum etiam firmis solidisque argumentis et rationibus comprobare studuimus."<sup>1</sup>

His method, therefore, is objective and positive, and his cases are so supported with solid arguments and principles as to save him from being regarded as a mere casuist. When he finds himself at variance with other authors on a particular point, he records their opinion with fidelity, but he is more concerned with establishing the truth of his own solution, than with attacking and demolishing the opinions of others—he is constructive rather than destructive. His own assertion on this point has a very striking resemblance with that of St. Alphonsus in the preface to his *Moral Theology*. "In sententiis vero auctorum recensendis, omni studio usus sum, ut quid unusquisque senserit breviter et succincte exponerem . . . in aliorum opinionibus confutandis ea semper usus sum modestia, ut quantum momenti et veritatis habeat cuiusque sententia, fideliter exponerem, prudensque lector simul intelligeret, me nihil minus facere velle quam contendere et aliorum opiniones refutare, sed solum veritatis investigandae studio quid probabilius et verisimilius sit in sententiarum varietate ostendere."<sup>2</sup>

His method is occasionally controversial, *i.e.*, in inserting facts and arguments likely to be of use to his readers in their conflicts with heretics.<sup>3</sup> This is particularly true of his work "De Sacramentis," where his patristic learning is particularly in evidence in refuting Protestant heresies: "illud mihi curae in primis fuit ut hereticorum omnium sectas et errores agnoscerem et refellerem."<sup>4</sup> But there is no trace in Sayrus of that violent and unreasonable attitude towards the opinions of other Catholic authors that is so noticeable in Concina for example, and which generally has the opposite effect to that intended by the writer. And finally, one is particularly struck, in his solution of cases, by his repeated insistence on prudence as an authority of more weight in deciding a practical individual case, than the judgment of many theologians and Fathers in the abstract.

<sup>1</sup> Preface "Thesaurus Casuum."

<sup>2</sup> Ibid.

<sup>3</sup> *e.g.*, *Clavis Regia*, Lib. IV., c. 4 (Images), Lib. III., c. vi., n. 1 (laws).

<sup>4</sup> Preface "De Sacramentis."



## CHAPTER XII.

### HIS INFLUENCE.

Section 1. His Successors. Sanchez, Bonacina, etc. Busenbaum Salmanticenses.

Section 2. St. Alphonsus. Points of agreement. Errors of citation.

Section 3. Eulogies of subsequent writers. Armellini, Ziegelbauer Bouquillon.

Section 4. Conclusion. The unwarranted oblivion into which he has fallen.

#### Section 1.—His Successors.

The influence exercised by the works of Sayrus may be judged by the fact that the "Clavis Regia" passed through ten editions between 1605–1659, the "De Censuris" through seven editions 1601–1627, the "De Sacramentis" through five editions 1599–1621, and the "Decisiones" through seven editions 1601–1627.<sup>1</sup> Up to the time of St. Alphonsus (d. 1787) he was a recognised authority used by all subsequent writers, and this is especially true of his "De Censuris."

Thomas Sanchez S. J. (d. 1610), best known for his work on Matrimony, published also a similar work to the "Clavis Regia" about seven years after Sayrus' death—"Opus Morale in precepta Decalogi." Though often departing from the solution of Sayrus on particular points (Sanchez has propounded many lax opinions in this book), the *Clavis Regia* is one of the chief authorities continually quoted. For example: *De Juramento, Decalog. Lib. III., c. 8, n. 21; c. 6, n. 41. De Tertio Precepto, Decalog. Lib. I., c. 12, n. 38. De Restitutione, Ibid Lib. VI., c. 3, n. 24. De Dispensationibus, De Matrimonio, Lib. VIII., c. 15, n. 17.*

Martin Bonacina (d. 1631) makes a very frequent use of Sayrus: *De Ilo Precepto, Disp. IV., q. 1, p. 7, n. 3. De Restitutione, Disp. I., q. 3, p. 7, n. 26. De Sigillo, q. 6, sect. 5, p. 3, n. 7. De Ordine, p. 5, n. 25.* Sayrus' treatise "De Censuris" is particularly in evidence: *Disp. II., q. 2, p. 6, sect. 2, n. 6; q. 3, p. 6, n. 1, sect. 2, n. 1; Disp. III., De Suspens., p. 4, n. 4, etc.*

Castropalaus (d. 1633): *De Ordine, tr. XXIX., disp. 6, p. 10, n. 1. De Censuris, Tr. XXIX., disp. 2, p. 18, n. 3; disp. 6, p. 8, n. 17, etc.*

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<sup>1</sup> Cf *Supra*, p. 50.

Laymann S. J. (d. 1635) : *De Censuris*, Lib. II., Tr. 1, c. 15, n. 7 ; Lib. III., Tr. 3, p. 3, c. 12, n. 8, etc.

De Lugo S. J. (d. 1652) : *De Censuris*, Disp. XXI., n. 53, seq.

Bossius (d. 1665) : *De Effect. Matrimonii*, c. 5, n. 173, etc.

Tamburinus S. J. (d. 1675) : *De Irregularitate*, Lib. X., tr. 4, c. 15, sect. 7, n. 26, c. 8, sect. 1, n. 3 and n. 10, etc.

Sporer (d. 1714) : *De Irregularitate*, Suppl. Decalog., c. 3, n. 170, etc.

La Croix S. J. (d. 1714) : *De Furto*, Lib. III., p. i., n. 1011. *De Censuris*, Lib. VI., p. 2, n. 1457. Lib. VII., n. 342, etc.

Roncaglia (1733) : Tr. XV., q. 3, c. 2, q. 9 (*De Reo*), etc.

Elbel (d. 1756) : *De Primo Precepto*, Confer. XVII., n. 532. *De Restitutione*, n. 146. *De Irregularitate*, Conf. 6, n. 189, etc.

Concina (d. 1756) : *De Officiis parentum*, Decalog. Lib. VI., c. 6, n. 11, etc.

Benedict XIV. (d. 1758) : *De Irregularitate*, Notif. 84, n. 11 and 13, etc.

Collet (d. 1770) (Continuator Tourneley) : *De Irregularitate*, P II., c. 8, art. 2 ; c. 3, concl. 3, n. 2.

Busenbaum (d. 1668), whose well known "*Medulla Theologiae Moralis*" is of great relative importance owing to its being the basis of the Moral Theology of St. Alphonsus, makes a frequent and wide use of Sayrus. The following references, amongst the numerous citations, are to the Moral Theology of St. Alphonsus. "*De Primo Precepto*," Lib. III. 7 ; III. 30. "*De Quarto Precepto*" III., 356. "*De Statu Clericorum*," Lib. IV., 190, 196, 202, 215. "*De Peccatis*," Lib. V., 13. "*De Censuris*," Lib. VII., 287, 316. "*De Irregularitate*," Lib. VII., 403, etc.

Salmanticenses (1714). The compilers of the "*Cursus Theologiae Moralis*," P. Franc, a Jesu Maria, P. Andreas a Matre Dei, P. Sebastian a S. Joachim, and P. Ildephonso ab Angelis, have made an abundant but careless and erroneous use of Sayrus. Owing to the reliance which St. Alphonsus had on this Moral Theology, the errors of its compilers have entered into the text of St. Alphonsus, and by this means transmitted to countless other authors. Thus : Tr. X., c. 4, n. 67 (*De Excommunicatione*) and Sayrus *De Censuris*, Lib. III., c. 5, n. 3 ; Tr. X., c. 7, n. 25, (*De Irregularitate*) and Sayrus *Ibid* Lib. VI., c. 2, n. 24 ; Tr. XXV., c. 1, n. 87 (*De Occisione pro furto*) and Sayrus "*Clavis Regia*," Lib. VII., c. 10, n. 30 ; Tr. X., c. 1, n. 117 (*De Censuris*) and Sayrus "*De Censuris*," Lib. I., c. 7, n. 22.

### Section 2.—St. Alphonsus.

Owing to the important part taken by "external probability" in the Moral System of St. Alphonsus, his theology is very largely occupied with weighing the opinions of other theologians; the large number of citations for and against on every question makes a reading of the text somewhat tiresome. But for the purpose of determining the importance and influence of Sayrus in Moral Theology, the constant and numerous citations of his works by St. Alphonsus can be a very sure and reliable guide, for he made use only of the great and classical writers. "*Ut vero sententias veritati conformiores seligerem in quacunque questione, non parum laboris impendi; per plures enim annos quamplurima auctorum classicorum volumina evolvi, tam rigidae quam benignae sententiae, quae ultimo (ut arbitror) in publicum prodierunt . . . Ubi vero non inveni rationem pro una parte convincentem, non sum ausus oppositum damnare, more aliorum, qui nimis facile reprobant opiniones, quas plures et graves auctores tuentur, quorum doctrinas prae laudatus N. SS. P. Benedictus (longe ab illis alienus, qui eas liberius parvipendunt) in suis elaboratis operibus, et omnigena eruditione refertis, non sine aestimatione commemorat, et saepe eis utitur.*"<sup>1</sup>

Therefore, apart from the intrinsic value of Sayrus' work, of which certain aspects have been set out in the preceding pages, the fact that there are nearly two hundred citations of Sayrus in the Moral Theology of St. Alphonsus is sufficient indication that he is to be reckoned as a "grave" and "classical" author. An important consideration, moreover, is the degree in which St. Alphonsus identifies himself with the opinions of Sayrus. "*. . . ne existimes me opiniones illas approbare, ex eo quod non reprobem . . . cum aliquam opinionem veriolem voco, tum contrariam non habeo ut probabilem . . . quando unam ex sententiis probabiliorem appello, nullo judicio dato de probabilitate alterius, aut utor hoc verbo "non audeo damnare," non propterea intelligo eam probabilem dicere sed judicio prudentiorum remittere.*"<sup>2</sup> In the following list of references to St. Alphonsus, I have thought it sufficient to indicate the subject matter and the reference, as any attempt to give in details the "pro" and "con" of each point would extend the matter to too great a length. The object has simply been to show that in the wide use and numberless citations of Sayrus, St. Alphonsus, with but very few exceptions, finds himself in agreement.

"De Peregrinis," Lib. I., 157; "De Prohibitione

<sup>1</sup> Praefatio St. Alphonsi. Ed. Gaudé, p. lvi.

<sup>2</sup> Ibid.



librorum," Lib. I., Tr. ii., App. 3, cap. v., n. 11; "De Juramento," Lib. II., 77, 162; "De Voto," Lib., II. 239; "De Cultu Dei," Lib. III., 264; "De opere servili" III., 301; "De auditione Sacri," Lib. III., 332; "De Quarto Precepto," Lib. III., 335; "De Occisione sui-ipsius," Lib. III., 371; "De Pollutione," III., 467, 477; "De Furto," Lib. III., 529, 531; "De Restitutione," Lib. III., 598; "De Gabellis," Lib. III., 616, 617; "De Retentione ex voluntate Domini presumpta," Lib. III., 700; "De Detractione," Lib. III., 973, 992; "De obedientia religiosi," Lib. IV., 47; "De Privilegiis Relig.," Lib. IV., 61; "De peccato eorum qui avertunt filios a religione," Lib. IV., 77; "De Assistentia Chori," Lib. IV., 130; "De Officio Judicis," IV., 210, 215; "De Procuratore," Lib. IV., 233; "De Testibus," Lib. IV., 266, 270; "De Fuga Poenae," Lib. IV., 280, 282, 284; "De Peccato," Lib. V., 4; "De Desiderio malo," Lib. V., 13, 40; "De Sacramentis," Lib. VI., 39, 88; "De Baptismo," Lib. VI., 122; "De Eucharistia," Lib. VI., 244, 266; "De Recidivis," Lib. VI., 459; "De Jubilaeo" Lib. VI., 537, q. 8; "De Casibus Reservatis," Lib. VI., 563, Dub. 2, Dub. 3, 591, Dub. 4; "De Sigillo," Lib. VI., 650; "De denuntiatione sollicitantis," Lib. VI., 695; "De Irregularitate," Lib. VI., 791, dub. 2; "De Suspensione," Lib. VI., 796, dub. 1; "De metu gravi in Ordinatione," Lib. VI., 811; "De Titulo," Lib. VI., 823; "De Petitione Debiti," Lib. VI., 931; "De Cohabitatione Conjugum," Lib. VI., 939, 977; "De Auctore Censurae," Lib. VII., 12; "De Subjecto Censurae," Lib. VII., 14, 15, 24, 26, 27, 28; "De Causa Censurae," Lib. VII., 34, 61, 65; "De Absolutione Censurae," Lib. VII., 73, 83, 117, 131, 132; "De Consortio cum Excommunicato," Lib. VII., 139, 140, 141; "De Effectibus Excommunicationis," Lib. VII., 149, 150; "De Privatione Sacramentorum," Lib. VII., 159, 174, 176; "De obligatione Excommunicati quoad horas Canonicas," Lib. VII. 178; "De Aliis effectibus Excommunicationis," Lib. VII., 187, 191, 192, 195, 201, 202, and dub. 2, 206, 215; "De Clausura," Lib. VII., 222, 232; "De Percussione Clericorum," Lib. VII., 266, 269, 274, 275, dub. 3; "De Libris Prohibitis," Lib. VII., 284, 287, 292, 295, 301; "De Heresi," Lib. VII., 307; "De Suspensione" Lib. VII., 313, 316, dub. 1; "De Interdicto," Lib. VII., 337, 342, 343; "De Irregularitate," Lib. VII., 347, dub. 3, 351, 352, 355; "De Irreg. ex delicto," Lib. VII., 356, 358, 368, 371, 373, 374, 375, 376, 379, 380, 382, 386, 387, 388, 393, 395, 396; "De Irreg. ex defectu," Lib. VII., 399, 403, 404, 405, 406, 407, 408, 412, 422, 427, 439, 445, 449, 450, 468.

In all these citations St. Alphonsus is in agreement with Sayrus. In the following instances, Sayrus' solution is given

as "probable," but St. Alphonsus is of the opposite opinion. "De Occisione pro furto," Lib. III., 383, q. 3; "De Juramento," Lib. III., 172, ii.; "De opere servili," III., 280; "De Restitutione," III., 682, 890; "De Delectatione Morosa," Lib. V., n. 15; "De Absolutione Moribundi," Lib. VI., 562; "De Irregularitate," Lib. VI., 799, bis.; "De Sponsalibus," Lib. VI., 877; "De Censuris," Lib. VII., 60, 64, 163, 198, 464.

In the following citations St. Alphonsus regards the opposite opinion as "verior," therefore the opinion defended by Sayrus must be regarded by St. Alphonsus as "non probabilis," according to the rule explained in the Preface to his Moral Theology. I can only find the following eight instances. "De Susceptione Sacramentorum cum opinione probabilis," Lib. I., 51; "De Restitutione," Lib. III., 875, ad finem; "De Omissione Divini Officii," Lib. IV., 149; "De Baptismo," Lib. VI., 117, dub. 2; "De Sac. Penitentiae," Lib. VI., 621; "De Titulo Beneficii," Lib. VI., 816; "De Censuris," VI., 137, 452.

The following are instances of error and misquotation generally, to be traced to the Salmanticenses, Lib. III., 25; 383, 616, 628; Lib. VI., 39, 816, 939; Lib. VII., 10, 27, 73, 176, 187, 307, 316.

It will be seen from these lists that St. Alphonsus has made a very considerable use of Sayrus in his Moral Theology. It is noteworthy that he makes no reference to him when writing ex professo on his "Moral System," for, as we have seen, Sayrus is commendably vague on this point.<sup>1</sup> With very few exceptions the conclusions of Sayrus have been accepted by St. Alphonsus in the points on which he is quoted. He is most widely used in Lib. VII., "De Censuris" and in Lib. III., "De Preceptis." The two works of Sayrus, therefore, which are most frequently referred to are the "De Censuris" and the "Clavis Regia." But each of the other less known works are also cited, e.g., "Decisiones Casuum Conscientiae," Lib. VI., 562; "De Sacramentis," Lib. VI., 265, q. 5; "Summa S. Penitentiae," Lib. VI., 650.

### Section 3.—Eulogies of his Learning and Influence.

I append here a few references to Sayrus' learning and influence, which have been gathered chiefly from writers during a century and a half after his death.

D. Maurus (d. 1605), the editor of the posthumous *Clavis Regia*, has given a laudatory description of its author in the Preface.

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1. *Supra* p. 78.

John Pitts (d. 1616), an English theologian and biographical writer<sup>1</sup> and a personal acquaintance of Sayrus, says : "Erat sane vir integritate vitae, morum suavitate, et singulari modestia, Deo et bonis omnibus amabilis, et qui solidi ingenii constantis iudicii, felicissimaeque memoriae beneficio ad insignem eruditionem pervenit, ut eius opera satis testantur. Nam de Theologia praesertim morali multa docte scripta reliquit, plura relicturus, nisi mors immatura eum e medio sustulisset."<sup>2</sup>

Antonius Scipio (d. 1630)<sup>3</sup>, a monastic chronicler "non quidem puerilibus nugis refertum, ut plurimum ea tempestate elogia solebant esse,"<sup>4</sup> mentions Sayrus several times in his account of the Abbots of Monte Cassino. "Per haec tempora floruit inter Cassinates Gregorius Sayrus natione Anglus, non modo religiosissima sacri institutionis observatione, vitaeque innocentia admirabilis, sed etiam optimarum artium studiis, praesertim sacrorum canonum et moralis theologiae excellenti cognitione et peritia insignis. Verum datis in lumen praeclarissimis voluminibus, multo ipse notior est ac celebrior, quam ut mearum laudum testimonio et predicatione indigeat"; "praecellenti doctrina et magni nominis preceptore."<sup>5</sup>

Hieronumus Ghilenus (circ. 1650), writes "...ad singularem eruditionis famam inter literatos pervenisse . . . theologiae operam dedisse, eo quidem successu ut perfectissimus theologus evaserit . . . eius opera maximam apud doctos laudem invenisse, et non minorem legentibus peperisse utilitatem."<sup>6</sup>

Clement Reyner (d. 1626), the author of a valuable chronicle of the Benedictine Order in England,<sup>7</sup> refers to Sayrus among other English monks at Monte Cassino, "D. Gregorius Sayrus orbi catholico doctissimus, in theologiae lucubrationibus notus. . ."<sup>8</sup>

Gabriel Buccelini and G. Matth. Conigius (circ. 1670) speak of him as one of the best known theologians of his time.<sup>9</sup>

Angelus de Nuce (d. 1691), Abbot of Monte Cassino, and the author of several historical works of great erudition,<sup>10</sup> mentions Sayrus, "vitae sanctimonia venerabilem editis voluminibus clarum."<sup>11</sup>

1 Hurter III., 574.

2 Pitts. *De Angliae Scriptoribus*. Paris 1623, p. 800.

3 Hurter III., 843.

4 Ziegelbauer *Hist. Lit. O. S. B.* IV., 567.

5 Ant. Scipio. *Elogia Abbatum Sac. Mon. Cassin.* Naples 1643, p. 245, 255.

6 Hieron. Ghil., Vol. II., p. 161, apud Armellini *Bibliotheca Benedictino-Cassin I.*, p. 193.

7 Hurter III., 1215.

8 Apostolatus *Benedictinorum in Anglia*, p. 242, § 4 (Douay, 1626).

9 Armellini loc. cit. Hurter IV, 535. 10 Hurter IV., 549

11 *Chronicon Cassinense*, Lib. IV., c. 108, n. 2013.



Joannes Mabillon (d. 1707), the renowned Benedictine scholar and historian, enumerates him among the classical authors in *Moral Theology*.<sup>1</sup>

Felix Egger (d. 1720), calls him "theologum accuratissimum et simul juristam" and mentions the eulogy of Gobat, "instar trium jurisconsultorum."<sup>2</sup>

Charles Dodd (d. 1742), the English Historian, in an account of his life, mentions his great reputation for learning, which is repeated in the *Dictionary of National Biography* and in Cooper's *Athenae Cantabrigienses*.<sup>3</sup>

D. Marian Armellini (d. 1737), one of the principal sources for the facts of Sayrus life, estimates him : "Scholastica aeque ac Morali Theologia, varioque disciplinarum genere floruit anno 1595, nec mirum sane, praeclara eius opera tantae semper fuit auctoritatis apud omnes theologos, et Canonum professores, cum doctrinam solidissimam, et firmissimis Conciliorum, ac SS Patrum fundamentis innixam contineant : illud quidem maiori admiratione dignum, Sayrum admodum juvenem, tot volumina eaque gravissima, praestantissimamque absolvere potuisse. Obiit enim fato nimis immaturo anno 1602, aetatis 32, nondum expleto. Quamobrem eo utique magis eius ingenium atque doctrina suspicienda sunt, quo juvenili aetate id abunde praestiterit, quod vix in maturiori perfecte praestari potest."<sup>4</sup>

Magnoaldus Ziegelbauer (d. 1750), the author of a very valuable work of reference in Benedictine literary history, similar to that of Armellini, is the most enthusiastic of all the writers who have mentioned Sayrus. "Quem non solum Schola Cassinensis sed Ecclesia Romana inter precipuos quos unquam habuit theologiae moralis doctores numerare jure et merito potest, nisi principatum illi assignare velit. Is siquidem insigni opere studioque indefesso conscientiae casus, ut vocant, collegit, pulcherrimamque methodo et industria singulari ita degessit, ut ceteris omnibus, quotquot de hac materia scripserunt, doctorum judicio palmam praeripuisse videatur. Ita ut dignus sit, qui omnium omnino hominum, quotquot ex huius vitae casibus lubricis et tenebris ad stabilem illam felicitatem et lucem inaccessam aspirant, assiduo manibus et mentibus teratur et revolvatur et canescat saeculis innumerabilibus."<sup>5</sup>

Thomas J. Bouquillon (d. 1902), a theologian of wide reading and erudition, is the only modern author I have seen who makes any reference to Sayrus, though several include

1 Armellini, loc. cit.

2 Ibid.

3 Dodd, *Ch. Hist. of England*, Vol. II., p. 142 ; *D. N. B.*, Vol. L., p. 390 ; Cooper *Athenae Cantab.* II., p. 334.

4 Armellini loc. cit., p. 190. He is in error regarding date of death,

5 Ziegelbauer *Hist. Rei Lit. O. S. B.* II., cap. I, § 4, p. 183.

him in the Catalogue of Authors. Fr. Berlière O. S. B., of Maredsous tells me that Bouquillon had the very highest regard for Sayrus' theological knowledge, especially as an interpreter of St. Thomas. He says of him in one place, "Inter magnos theologos Sayrus annumerandus, maximis, si diutius vixisset, aequandus. Obiit enim fato nimis immaturo aetatis ann. 32," and again "E nobili coetu monachorum afferri possunt Gregorius Sayrus, quem merito quis appellavit 'insignis eruditionis vir.'"<sup>1</sup>

Fr. D. Prümmer, in the catalogue of authors prefixed to his "Manuale Theologiae Moralis" says with regard to Sayrus: "Opera Sayri semper fuerunt magnae auctoritatis apud omnes theologos, et mirum est, quod iste vir, qui juvenili fere aetate ex hac vita decessit, potuit tot volumina eaque gravissima absolvere."<sup>2</sup>

H. Hurter S. J. devotes two columns to Sayrus in the "Nomenclator Literarius." He mentions all his works and prints the two laudatory estimates from Armellini and Ziegelbauer.<sup>3</sup>

#### Section 4.—Conclusion.

It is a little difficult to understand the comparative oblivion into which Sayrus has fallen. With regard to his canonical works, the legislation of the Church has passed through so many changes that all the old books and to some extent all the pre-codex books have quickly been superseded. With regard to his most important work, "Clavis Regia," I think the reason that it has been passed over is the fact that his teaching on Probabilism is not the thorough going sort which has found favour in recent times. Perhaps in future years when the pendulum swings again in favour of no hard and fast "system" at all, Sayrus will be recognised as one of the authors who was least affected by the changes for which Medina is generally held responsible, and his works will again receive the serious attention they deserve. The complete oblivion of his book "De Sacramentis in Communi" is even more noticeable. It is not even mentioned in De Smet's list of over a hundred authors who have written on the subject.<sup>4</sup> Whatever judgment one forms on the intrinsic value of his work, he is certainly worthy of mention in any historical account of theology; yet, in an article on Benedictine

1 Bouquillon. Theol. Moral Fundam. Bruges 1903, p. 122, n. 18; p. 584, n. 9;

2 D. Prümmer Theol. Moral, 1915, p. xxxv. Cf p. 1 Supra, *re* the error in date printed in all modern lists.

3 Hurter Nomenclator III., 601.

4 De Smet "De Sacramentis in genere." Index Bibliographicus.

scholars in the Catholic Encyclopedia, written by an English Benedictine of Downside, Sayrus' name is not to be found in the list.<sup>1</sup> I can only note the fact that he is forgotten, whereas he should be remembered, and hope an attempt to restore his memory may be sufficient justification for the subject of this thesis.

FINIS.

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<sup>1</sup> Catholic Encyclopedia II., 462, art. "Benedictines," G. Cyprian Alston O. S. B.



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# INDEX.

## A

Absolution-by letter ... 121  
 Acquaviva ... 11  
 Agazzari ... 7, 12  
 Aguirre ... 39, 106  
 Alexander of Hales ... 30, 132  
 Alexander VII. ... 92, 95, 103  
 Alexander VIII. 44, 91, 102, 109  
 Allen Cardinal

6, 7, 11, 13, 35, 109

Alphonsus, St.

59, 120 seq., 140, 142

Alvarez, D. ... 49

Ambrose, St. ... 25, 131

Angelus de Nuce ... 145

Angles, J. ... 46

Anselm, St. ... 37, 39

Antoninus ... 33, 64, 86

Aquinas, St. Thomas 29, 31, 39,

57 63, 69, 77, 95, 97, 106 seq., 132

Armellini ... 146

Azor, J. ... 48

## B

Bacon, R. ... 34

Bannez, D. ... 47

Bellarmino ... 35

Benedict XIV. ... 141

Benedictines :

Cassinese 14 seq., 39 seq.

Congregations ... 40

Decline ... 37

English ... 14, 20

Theologians ... 36 seq., 105

Bonacina, M. ... 49, 140

Bouquillon 23, 24, 87, 146

Bristowe, R. ... 5

Busenbaum ... 141

## C

Cajetan ... 132

Cambridge ... 2, 3

Camm, B. ... 14, 17, 19

Canus, M. ... 113, 133

Cassian ... 27

Castropalaus ... 140

Casuistry ... 36, 136

Catharinus, A. ... 109, 133

Certitude ... 55

Chrysostom, St. J. ... 25

Clarins, I. ... 41

Clement VIII. ... 19

Clement XIII. ... 63

Clenock ... 6, 11

Collet ... 141

Comitolus, P. ... 49, 65

Compensationism ... 60

Concina, D. ... 61, 139, 141

Condemned Propositions 90

Conscience ... 67 seq.

Doubtful 55, 75 seq., 84

Erroneous ... 68, 70 seq.

Probable ... 78 seq.

Cortese ... 18, 19, 41

Corduba, A. ... 46, 64

Craniotomy ... 129

## D

Diana ... 60

Didache ... 24

Dodd, C. ... 146

Döllinger-Reusch 60, 61, 87, 136

Dominicans ... 30

Donay ... 1, 4, 5, 7, 43

Doubt ... 56, 83

## E

Egger, F. ... 146

Elbel ... 141

Escobar ... 93

External Acts ... 115

## F

Filiucci ... 49

Finglow ... 3

Flacke, W. ... 7

Folengo, J. ... 33, 41

## G

Ghilenus, H. ... 145

Gobat, G. ... 134

Goldwell ... 6

Graffius ... 18, 42, 45

Gregory the Great 27, 37 131

Gregory IX ... 32

Gregory XIII ... 8, 9, 12, 41

Gury ... 104

## H

Hall, R. ... 44

Henriquez ... 48, 66

Homicide ... 128

Hurter, H. ... 147

## I

Ignorance ... 91

Indifferent Acts ... 114

Innocent III. ... 5

Innocent X ... 65

Innocent XI. 93, 99, 103, 124

## J

Jesuits ... 11, 12, 14, 34

Jewell ... 3

John de Burgos ... 33

Judges ... 93, 101, 119

Jurists ... 33, 69, 133



K				R			
Kellison, M.	...	...	7	Raymond of Pennafort, St.	...	32	
L				Raulin, J.	...	40	
La Croix	...	...	141	Rebellus, F.	...	49, 65	
Lateran Council IV.	...	...	30	Reginaldus	...	49	
Laxism	...	...	60	Restitution	...	124	
Laymann	...	...	140	Reyner, G.	...	145	
Lea	...	61, 87, 91, 99,	101	Rigorism	...	91	
Leander	...	...	44	Rodriguez, E.	...	48	
Ledesma, B.	...	...	48	Rome, English College	...	5 seq.	
Ledesma, M.	...	...	46	Roncaglia	...	141	
Ledesma, P.	...	...	49	S			
Lehmkuhl	...	...	137	Sa, E	...	47	
Leigh, R.	...	...	7, 9	Sacraments;	...		
Leo XIII	...	...	30, 109	Casuality	...	107	
Lessius, L.	...	...	49, 66	Character	...	111	
Lewis, O	...	...	11	Intention	...	109	
Lopez, L.	...	...	46, 66	Probability	...	99	
Louvain	...	...	65	Salmanticenses	...	141	
Lost Property	...	...	126	Salsburg	...	41	
Lugo	...	...	141	Sanchez, J.	...	50, 66	
M				Sanchez, T.	...	49, 88, 95, 140	
Mabillon	...	...	146	Scholastics	...	29	
Maldonatus	...	...	112	Scipio, A.	...	145	
Martin, G.	...	...	6	Scrupulosity	...	98	
Matrimony	...	...	112	Sin	...	115 seq., 122	
Maurus, D.	...	...	22, 144	Sinnich, J.	...	44, 91	
Medina, B	...	35, 46, 59, 65,	132	Sixtus, V.	...	11, 12	
Mercurianus	...	...	7	Slater, T.	...	59	
Mission Oath	...	...	10, 15, 17	Soto, D.	...	39, 113, 133	
Molina, L.	...	...	47	Sporer	...	141	
Monte Cassino	...	14 seq., 39 seq.		Stapleton, T.	...	5, 35 43	
Morality	...	...	114	Suarez	...	8, 48, 132	
N				Summists	...	32, 63, 98, 124, 135	
Natural Law	...	...	118	Synderesis	...	68	
Navarrus	...	...	22, 47, 64, 135	T			
O				Taxes	...	124	
Opinion	...	...	38	Tamburinus	...	141	
Oxford	...	...	56	Ter Haar	...	61, 87, 99, 101	
P				Terillus	...	44, 63, 65	
Palacios, M.	...	...	46	Theft	...	122	
Parsons, R.	...	...	6, 11, 13	Thomas Aquinas St. v. Aquinas	...		
Pascal	...	...	60	Tippets, J.	...	9	
Penitential Books	...	...	26 seq.	Toletus, F.	...	47	
Peter Lombard	...	28, 30, 32, 34		Towson, J.	...	45	
Perez, A.	...	...	41	Trent Council of	...	34, 122, 131, 132	
Philatelus	...	...	65	Trithemius	...	40, 41	
Pitts, J.	...	...	19, 44, 145	Tutorism	...	57	
Pius, V.	...	...	2, 13, 92	V			
Possevinus	...	...	20, 21	Valentia	...	48, 66	
Probabiliorism	...	...	58	Vasquez	...	8, 48, 66 132	
Probabilism	...	...		Venice	...	19 seq., 41	
34, 35, 56, 59, 78 seq., 90 seq.,	...	...	147	Vitelleschi	...	65	
Prudence	...	...	102, 139	Viva	...	95, 97	
Prümmer	...	...	1, 147	Z			
				Zacharia	...	26	
				Ziegelbauer	...	15, 146	









